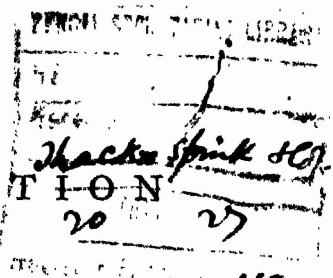


AN

ELUCIDATION

OF THE

ARTICLES OF IMPEACHMENT

PREFERRED BY THE

LAST PARLIAMENT

AGAINST

WARREN HASTINGS, Esq.

LATE

GOVERNOR GENERAL

OF

BENGAL.

By RALPH BROOME, Esq.

CAPTAIN IN THE SERVICE OF THE EAST INDIA COMPANY ON THE BENGAL ESTABLISHMENT,

AND

PERSIAN TRANSLATOR

TO THE ARMY ON THE FRONTIER STATION, DURING PART OF THE LATE WAR IN INDIA.

LONDON:

PRINTED FOR JOHN STOCKDALE, OPPOSITE BURLINGTON HOUSE, PICCADILLY.

M.DCC.XC.

1790

PREFACE.

MR. HASTINGS's Trial being ended, or at leaſt ſuſpended, by the Diſſolution of Parliament, I am now going to fulfil the promiſe I made long ſince to the Public, namely, that I would put my real name to the Letters publiſhed in the ORACLE laſt winter.

At the beginning of the Work, the motive of my writing on this ſubject was declared by the Editor of the Paper. And I do here again moſt ſolemnly declare, that neither Mr. Haſtings nor Major Scott, nor any other perſon of his party, ever ſuggeſted to me the idea of the work I publiſhed, nor of any thing of the kind. Whatever I have written upon the ſubject of Mr. Haſtings's Impeachment, whether gravely or ludicrouſly, was perfectly my own, both in deſign and execution. A great part was ſent to the Preſs without the inſpection of any perſon whatever. Mr. Haſtings never ſerved me in his

life, either at home or abroad, conſequently he could have no claims upon my gratitude. It may be aſked then, Why did I write on a ſubject in which I was not intereſted? My anſwer is, that I was frequently in company where I heard gentlemen give their opinions without any knowledge of the queſtion. I have heard many people cry, Mr. Haſtings muſt be a very bad man, if a fiftieth part of what Mr. Burke accuſes him of, be true, and when they were aſked, what it was that Mr. Burke had accuſed him of, their anſwer always was, That they could not tell: That it was ſuch an immenſe maſs of confuſed matter, that they could not comprehend it; but they took it for granted that it muſt be ſomething very bad, or Mr. Burke would not make uſe of ſuch ſtrong and opprobrious language. Inſtances of this nature happened very often, and one in particular in a northern county, which firſt ſuggeſted the idea of theſe Letters. It was to give the public a clear and impartial view of the Charges exhibited againſt Mr. Haſtings, that I publiſhed the Elucidation, as the Printer was pleaſed to ſtile it, for I myſelf gave it no title or appellation whatever. It was my ſtudy to avoid giving offence to any man. I was at that time perſonally unknown to all the Managers, and conſequently could

could not be inimical to them upon private grounds. If I thought differently from them, it was the effect of conviction operating upon my mind. Things that appeared to them criminal in the higheſt degree, appeared to me as abſolutely neceſſary to the ſalvation of the Britiſh Empire in India.

Such was the confiſcation of the Begum's treaſure at Ferruchabad—By Mr. Sheridan, the act of urging a ſon to reſume his property from his mother, was repreſented as a crime of the deepeſt dye. To me, the mother's detention of her ſon's right ſeemed more criminal in the firſt inſtance, than his forcible reſumption of of it in the ſecond.

The taxation of Cheyt Sing ſeemed to me, as far as I was able to judge from my knowledge of India Cuſtoms, Politics, and form of Government, to be full as juſt and equitable, as any tax that ever was impoſed by a Britiſh Legiſlature, and the fining of him for diſobedience was fully as equitable, and perhaps more neceſſary, than many of our penal ſtatutes.

I could, upon the deepeſt reflection, diſcover no other difference than this, namely, that the acts of our legiſlature are too high for any power on earth to call them into queſtion; and

the acts of the British government in India are not of so uncontroulable a nature.

Mr. Hastings, both in the business of Chyte Sing and of the Begums, did what he thought was justifiable by the Laws of India, and the customs of every government in the world. I am far from thinking that Mr. Hastings acted circumspectly or prudently in all that he did: but I am as fully convinced as human evidence and unprejudiced reflection can make a man, that in all the charges brought before the court, Mr. Hastings did what he thought was indispensably necessary, and therefore strictly justifiable. The incautious, and I may say imprudent manner, with respect to himself, in which he acted, is a strong presumptive proof of the purity of his intentions.

It was owing to this firm conviction in my mind, that I have in all companies, where the subject has been started, endeavoured to give those who chose to attend, a clear statement of the principal facts: and wherever I have thought Mr. Hastings wrong, I never scrupled to declare it. I am not the blind partizan of Mr. Hastings, nor am I the hireling as Mr. Burke has insinuated.

I do bid defiance to all mankind, to shew one

one inſtance of Mr. Haſtings having ſerved me, or even to ſhew any ſelfiſh view that I can poſſibly have in eſpouſing his cauſe.

It never was my intention nor expectation to influence the minds of thoſe who were ultimately to judge, by any writings of mine.

All I meant was, to prevent the Public from being led away by bold and hazardous declamation.

It did, and does appear to me a very cruel thing, that a man who had filled the higheſt poſt in India for thirteen years, who was acknowledged to have ſaved India, even by ſome of thoſe who voted for the Impeachment; a man who governed a large tract of country to the perfect ſatisfaction of thoſe who were ſubject to his authority. It did appear very hard to me, that ſuch a man ſhould be made the ſubject of the moſt bitter invective, year after year, without any perſon riſing up in his vindication, or attempting to ſtem the torrent of abuſe, by a plain and impartial narrative of facts.

I did not, however, mean profeſſedly to defend or vindicate Mr. Haſtings's conduct by the Letters I publiſhed; for in the ſtatement of facts I was guided almoſt wholly by the evidence brought by the Managers themſelves.

I began

I began the work with a declaration of candour, and a promiſe to correct any thing that ſhould be miſ-ſtated.

There were ſeveral publications againſt me.

One only, accuſed me of miſrepreſentation.

The charge was not without ſome foundation; and I corrected my error. I here allude to what I ſaid of the capture of Bidjagur, namely, that *the offenders were too many for juſtice*. In calling them offenders I followed the opinion and judgement of the court at Calcutta, not knowing at that time that their decree was reverſed.

Conſequently, though all the facts were true, yet, as they were not held criminal on the laſt appeal, I had no right to call the Captors who precipitately divided the treaſures they found *offenders*.

Excepting this epithet, I do not know that any thing I ſaid was called in queſtion in point of veracity. There was ſome perſon who wrote againſt the Elucidation in the GAZETTEER, but I really think the Author not three removes from a madman. It is probable now that I put my name, the ſame writer will repeat his abuſe; but unleſs he diſcovers himſelf, and publicly avows his work, I ſhall not think him worthy of my notice: neither will I anſwer any anonymous

mous publication whatever. A man who writes in a public paper under a fictitious ſignature, may ſay any thing without the riſk of being ſhamed by detection. Such was the caſe with ſome perſon who, at the time I was ſubpœnaed to give evidence in Weſtminſter Hall, inſerted a paragraph in the MORNING POST, roundly aſſerting, that I owed my fortune to Mr. Haſtings's patronage. I contradicted the aſſertion with my name to it: and a ſecond paragraph appeared in the ſame paper, ſtating, that as they could not contradict what I had advanced, they muſt believe that I never had been under obligations of that nature to Mr. Haſtings. Something ſimilar to this I have heard with reſpect to the late Lieutenant-Colonel Eaton. It was ſaid, and I believe very truly, that Mr. Haſtings ſuſtained a great loſs by the death of that officer in point of teſtimony; yet was there a perſon found bold enough to affirm, that he had heard Col. Eaton declare, that his evidence would materially injure Mr. Haſtings, of whom he always had thought ill. This affirmation called forth a Letter from Major Scott, ſtating, that Col. Eaton had been examined by Mr. Haſtings's Counſel, and that his evidence was thought very important to Mr. Haſtings's juſtification. It is not likely, by the bye, that Col.

Col. Eaton thought ill of a man to whom he bequeathed a thouſand pounds.

There is another circumſtance which may have had ſome weight with me in the production of theſe Letters—I mean that indiſcriminate abuſe which ſome of the Managers, particularly Mr. Burke, have ſo laviſhly beſtowed on the Company's ſervice. In that ſervice I ſpent many years of my life, and owe to it the bread I eat. All general reflections are odious, and may, as Mr. Burke acknowledges, be treated as calumny. I ſhould, however, think the leſs of this, if Mr. Burke did not occaſionally make exceptions. Whenever it becomes neceſſary for him to call upon one of the Company's ſervants to give evidence, he is as laviſh in the praiſe of his witneſs, if his teſtimony anſwers his expectations, as he is at other times in the condemnation and abuſe of all the reſt. The deteſtation in which I hold this kind of conduct cannot poſſibly ariſe from ſelfiſh feelings; for Mr. Burke has never mentioned my name, either in public or private, to my knowledge, nor is it likely that he ever will. My abhorrence ariſes from reflecting, that an accuſer ſhould be permitted in a free country, where every man's rights are ſo well defined, to deſtroy the characters

racters of thouſands in the lump, in order to convict and bring to puniſhment one man.

What muſt the public think of the enemies of Mr. Haſtings, who wiſh to deprive him of every kind of evidence in his favour, by deſtroying the credit of thoſe whom they think likely to ſpeak favourably of him? It ſeems to be perfectly indifferent to many of Mr. Haſtings's enemies, whether they are conſcious of ſpeaking truth or not. A bold aſſertion, they are in hopes, will paſs with the public for truth; and if it will anſwer the purpoſe of the moment, they care for nothing more. This I know to be the caſe with reſpect to what was aſſerted of myſelf; and I may, by analogy, give them credit for the ſame with regard to what they ſay of others.

If ever I felt any indignation riſing in my breaſt upon reading the publications againſt Mr. Haſtings, it was not owing to friendſhip for the ſufferer; it was an honeſt indignation riſing up againſt a perverſion of truth, and an artful attempt to inflame the public mind againſt the man who has rendered this country more eſſential ſervice than all his enemies taken together.

I am aware that this expreſſion may excite a laugh. It may be ſaid, that Mr. Haſtings may have rendered his country more ſervice than all

his accuſers, and yet have done very little, they having done their country no ſervice whatever. Perhaps the expreſſion would be leſs liable to cavil, had I ſaid that Mr. Haſtings had done his country as much good as his accuſers have done miſchief.

It may perhaps be objected to this work, and by no man more likely than by Mr. Francis, that the author's rank and ſituation was not ſuch in India as to give him an opportunity of knowing and judging. To this I anſwer, that had any perſon of higher rank, of more knowledge and greater capacity taken upon him to give the public a conciſe and candid ſtatement of facts, I would never have attempted it.

I did it becauſe no one elſe did it.

It is true Major Scott has written a great deal, but his writings go ſo much into the detail that none but thoſe who are deeply intereſted, will take the trouble to collect them and to read them with proper attention. This, however, I may venture to ſay of Major Scott's writings, and I have heard the ſame remarked by very many people, viz. that the facts are always with him.

In addition to what I have ſaid in defence of my own writing on this ſubject, I might ſay, that I muſt be at leaſt well qualified to write

write on it, as Mr. Burke can be to ground an Impeachment on it.

I have theſe advantages over him, I was near 16 years in India, I underſtand the language of the country, I have read many of their hiſtories, I was for a conſiderable time on a ſurvey in the country, and afterwards one of the Perſian tranſlators in the field.

I had many opportunities of acquiring knowledge which cannot fall to the lot of thoſe who never were out of this kingdom. I will not, however, find fault let who will call my knowledge in queſtion.

Let him point out where I am wrong and I ſhall always be ready and willing to rectify my error.

But though I will not vindicate my knowledge, I defy all the world to accuſe me of unjuſt or corrupt partiality in favour of Mr. Haſtings.

I never ſought his acquaintance or Patronage in India, and he has never been in a ſituation in this country to make his friendſhip worth ſeeking on the ſcore of intereſt.

I never ſaw him till about three weeks before I left India, and about a month after I had aſked the General's leave to reſign the ſervice.

I was then barely introduced, and all that he ſaid beyond the uſual language of introduction was, that he had often heard of me and wiſhed much to ſee me.

I never ſaw him again till he met me by accident at Cheltenham, where I dined with him once.

At dinner he expreſſed a wiſh that I would call on him at his houſe in town, where he wanted to ſhow me an Arabic book, which was given to him by a native of India as a mathematical treatiſe, and ſuppoſed to contain problems unknown to Europeans.—I underſtood that I had been mentioned to him by ſome of the natives as the likelieſt Engliſhmen to tranſlate ſuch a work, as it required a knowledge of Arabic and Mathematics, two kinds of learning ſeldom united in one perſon reſiding in India.

This invitation I did not accept, nor did I ever ſee him again till long after he was impeached.

I ſhall now conclude this Preface with a ſolemn declaration, which I defy all mankind to diſprove, that I have never received any benefit or ſervice whatever, directly or indirectly from Mr. Haſtings, nor any promiſe from himſelf nor from any of his friends; and that whatever I have written was by the ſole impulſe of

my

my own mind. And I do further declare that nothing ever prevailed with me to write at all on the ſubject, but a deſire to keep the public mind from fixing its judgement till the Lords ſhould come to a final deciſion upon the Impeachment.

I beg alſo it may be remembered, that though I have till now delayed ſigning my name, I authoriſed the Printer to give it to any of the Managers who were moſt intereſted in what I had ſaid.

One ſatisfaction I have received ſince I began the Elucidation, namely, that the caſe of Deby Sing came out juſt as I ſtated it. Mr. Anſtruther put it in the ſame way, he admitted Mr. Haſtings not to be the immediate cauſe, but ſaid that the cruelties committed by Deby Sing could not have happened under the former ſyſtem. This was the way, in which Mr. Burke originally ſtated it, and when Mr. Fox made an invocation of divine vengeance on himſelf, if the truth of the ſtory reſpecting Deby Sing was not eſtabliſhed by evidence, he emphatically added *in the manner in which his honourable friend had ſtated it.* But the blame which I think juſtly imputable to Mr. Burke is the introduction of a ſtory no ways connected with either of the charges in ſuch a manner as to make

make the deepeſt impreſſion on the minds of the audience, without putting it into the power of the accuſed to efface it by the production of oral or written teſtimony. If Mr. Burke believed all that he ſaid, he ought to have made it an article of charge, and if he did not believe it himſelf, he ought not to have impoſed the belief on others. There certainly are ſtrong ſymptoms of an artful and premeditated intention to miſlead the inattentive hearer into an opinion that Mr. Haſtings was knowingly the cauſe of unprecedented cruelties. Such was the keeping the ſtory of Deby Sing a ſecret even from his colleagues, who were as much ſurprized at it as the people in the gallery. His working himſelf up into ſuch a paroxyſm of pity and indignation as to faint at the recital of his own ſtory. Tales of horror produce the ſtrongeſt effects at the firſt hearing. Had Mr. Burke fainted when he firſt read Paterſon's Collection in his cloſet, I ſhould have thought it a real affection of the nervous ſyſtem, but that he ſhould be more violently affected at his own reporting the ſtory than he was at the firſt reading of it is very improbable, and I muſt agree with Mr. Haſtings's friends, that it has the appearance of a ſtage trick,

Si

———*Si vis me flere dolendum eſt*
Primum ipſi tibi.

was the advice of Horace, and it is not impoſſible but Mr. Burke might think that to make the people feel he muſt ſet the example. Againſt theſe appearances we have Mr. Burke's profeſſions of candour, and general character of unimpeachable veracity.

TO

THE PUBLIC.

THE occaſion of writing the following Letters was this:—The Author happened one day this laſt ſummer, to be in company with ſeveral Gentlemen in a County diſtant from the Metropolis, where the pending TRIAL *became the ſubject of converſation.—Curioſity, and a deſire of knowing the public opinion, induced him for a time to conceal his having been in* India *from the knowledge of ſome of the company, in order that they might the more freely deliver their ſentiments and opinions.—He was not a little ſurpriſed to find, that though every one in company gave a moſt decided opinion, there was not one preſent who had any real information on the ſubject.*

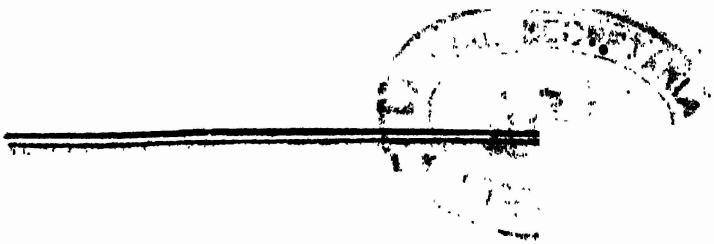
Mr. Haſtings, *they ſaid, had been guilty of the moſt atrocious barbarities, and deſerved the moſt exemplary puniſhment. They inveighed with vehemence againſt his cruelties to the women. But what was their ſurprize in return, when the* Author *of* theſe LETTERS *informed them, that bad as* Mr. Burke *had repreſented* Mr. Haſtings's *conduct, they, by miſunderſtanding him, had made it infinitely worſe: that* Mr. Burke *never accuſed* Mr. Haſtings *of inflicting, or ordering puniſhment to be inflicted on the women; but that ſuch things happened in conſequence of Political Revolution, brought about by* Mr. Haſtings *near two years before; and laſtly, that theſe barbarities, as had ſince been proved, never happened at all? The* Author *told them alſo, that* Major Scott *had put the Public in poſſeſſion of the real facts, in a Pamphlet publiſhed long ſince. To which they replied, that they had ſeen* Mr. Burke's *ſpeech in the newſpapers, but had never ſeen* Major Scott's *obſervations upon it. One of the company ſaid, it was much to be lamented, that no perſon had yet undertaken to write a kind of* hiſtory of the facts *which are laid to the charge of* Mr. Haſtings. *He ſaid, that he had read a great deal on the ſubject at ſeparate times, but that the narratives were ſo broken and interrupted, and ſo perplexed and confuſed with hard names, that he found it impoſſible to form any clear idea upon the ſubject.*

The Author *then engaged to write a few* LETTERS *for the information of the Gentlemen in that neighbourhood.—He at firſt thought, that nine or ten ſheets of paper would have contained all the outlines of the buſineſs, and information ſufficient for thoſe who were not to decide ultimately upon the queſtion. In this opinion he was ſomewhat miſtaken, and has been inſenſibly led into a greater length than he originally intended. It is, however, a very ſhort work now, compared with any production yet publiſhed on the ſubject.*

It is not pretended, that theſe LETTERS *give any New Light; or that all, and infinitely more, may not be extracted from the Reports of the* Committee *which have ſat on the inveſtigation of* India Affairs, *and from other publications. They will be ſerviceable to thoſe only who wiſh to underſtand the ſubſtance of the* Charges, *and the* Proofs *in ſupport of them, without the labour of reading many folio volumes. It has this advantage alſo, that every term is explained, and the whole brought down to the comprehenſion of the moſt uninformed Engliſh reader. At the ſame time, there are to be found arguments interſperſed in theſe* LETTERS, *that may be of ſome uſe to men of more enlightened underſtandings.—It has this farther advantage, that the* Author *is no Partiſan—he owes nothing in point of fortune to* Mr. Haſtings, *nor his opponent,* Mr. Francis. *To the lat-*

ter he is unknown perſonally, and very little acquainted with the former. In India he ſpent much of his time in the cultivation of Oriental Literature, *and took every opportunity of increaſing his knowledge, by frequent converſations with the moſt enlightened natives.*

LET-



LETTER I.

SIR,

AGREEABLY to your requeſt, and to my own promiſe, I now begin to give you ſome account of Mr. Haſtings's Trial. I do not mean to detail all the arguments adduced on both ſides; but merely to ſtate the nature and ſubſtance of the *Charges*, and to ſhew the principal points upon which they turn; for, in general, the diſpute is not concerning facts, but the Names or Epithets which thoſe facts ought to bear; that is, whether they are criminal or not.—Neither ſhall I follow Mr. Burke through his opening, or introductory Speech, which laſted four days; and, in ſome degree, deſtroyed its own force, by its vaſt length and perplexity. It will be ſufficient to ſay, that he gave an account of the Religion, Cuſtoms, and Manners of the Natives of Indoſtan; that he traced all the Revolutions of that country, from the firſt Mahomedan Invaſion of it, down to the year 1756, when the *Engliſh Intereſt* began to be of ſome weight in the political ſcale of the Empire.

In

In the courſe of his narrative, he inveighed much againſt the injuſtice of the Engliſh, and mentioned many things tending to throw diſcredit on Mr. Haſtings, whilſt very young in the Company's ſervice. But he ſaid, that he did not mean to bring any criminatory matter againſt the priſoner, which happened previous to the year 1772, the time of Mr. Haſtings's ſucceſſion to the Chair at Bengal.

I know it is the wiſh of you and many others, to be informed more particularly of the real ſtate of that ſtory, which was detailed by Mr. Burke, concerning Deby Sing. There is ſomething remarkable in this ſtory: though it is not made matter of charge, yet it has hurt the character of Mr. Haſtings in the eyes of all Europe, more than all the Twenty Articles put together. Of this Mr. Haſtings complains heavily, and not without good reaſon; for had it been a ſeparate article, or included in ſome other article, he might one day or other have had an opportunity of anſwering the accuſation in the ſame public manner in which it was made; but as it ſtands, he has not, nor ever had the means of pleading to it, as he did to the written charges; I therefore do not ſee how he can refute it. It is true, Mr. Burke did ſay, that he held himſelf reſponſible for the truth of it, and bound to prove, by evidence, all he aſſerted in his Introduction, as well as in the Charges or Articles themſelves. But I do not perceive at preſent any method of bringing the matter to iſſue, unleſs another article were added

to

to the preſent number, and that, perhaps, the Commons may not chuſe to do.

If Mr. Burke meant, by the relation of thoſe horrid cruelties, to inflame the minds of the Court and Audience againſt the Defendant, and thereby render them more eaſy of belief to other criminating matter, knowing at the ſame time, that he could not be called upon to eſtabliſh the facts by evidence, he certainly acted unfairly. I muſt, however, in favour of Mr. Burke, obſerve, that had a diſpaſſionate perſon read his Introductory Speech, inſtead of hearing it, or had he preſerved the whole in his memory, he would have had ſtrong doubts in his own mind, whether any of the facts, ſuppoſing them true, could in any ſhape reflect upon Mr. Haſtings. Mr. Burke does not ſay, that Mr. Haſtings either committed, or ordered any violence to be committed on the Natives; but he ſays, that Mr. Haſtings was the author of a meaſure which eventually occaſioned all thoſe cruelties which he detailed in ſo affecting a manner in Weſtminſter Hall. But there is a wide difference between being unknowingly and unforeſeeingly the remote cauſe, and being the wilful and immediate cauſe of an event.

But to give you a clearer idea of the matter, I will ſtate the ſubſtance of Mr. Burke's Speech, and Major Scott's Pamphlet in refutation of it.—The former ſays, that Mr. Haſtings having by accident the Supreme Power in his own hands, changed the ſyſtem of collecting the Revenues of Bengal, with

no

no other intention than that of increaſing his own power.

Here you perceive is the firſt point at iſſue—Mr. Haſtings denies this intention. But before I proceed farther, I muſt explain the nature of that ſyſtem which Mr. Haſtings ſet aſide; and alſo of that which he adopted in its room.

From the year 1773, the revenues had been collected under the direction of Provincial Councils.—To enable you to underſtand clearly what is meant by a Provincial Council, you may ſuppoſe the Revenues of this kingdom to be collected by a Board of Officers, ſtationed in the different Counties, and ſubordinate to the Treaſury Board in the Metropolis. Of theſe Provincial Councils there were ſix.

Their proceedings were tranſmitted to the Supreme Council at Bengal, which you may in this caſe conſider as the Treaſury Board here in England. Mr. Burke ſays, theſe Provincial Councils were formed by Mr. Haſtings in 1773. Mr. Haſtings ſays, they were neither of his formation, nor had they his approbation.

Here you will obſerve is the ſecond point at iſſue.

It is neceſſary I ſhould now take notice, that previous to October 1774, the Adminiſtration of Bengal conſiſted of a Preſident and eleven Counſellors: Mr. Haſtings was Preſident, but could not always procure a majority in Council, and conſequently often yielded to neceſſity.—Such appears to have been the caſe in the forming of theſe Provincial Councils;

cils; and, indeed, it muſt be obſerved, that from the time of forming them in 1773, to the time of diſſolving them in 1781, the Adminiſtration was in a very unſettled ſtate: I do not mean unſettled with reſpect to form or conſtitution, but unſettled with reſpect to the prevalence of party. The Council of Bengal, like all Political Bodies, were in general divided into parties.—And though Mr. Haſtings had the majority before 1781, yet he held it by a very precarious tenure, and could not venture at great innovations. But in the year laſt mentioned, Mr. Haſtings having the caſting vote in his own perſon (there being only one member (Mr. Wheeler) of the Supreme Council then living, and in India) ſet aſide the Provincial Councils, and eſtabliſhed a Committee of Revenue at Fort William in their ſtead.

Among other reaſons for the alteration, it is alledged, that Mr. Francis condemned the Provincial Councils in a minute ſtanding on record. And it ſeems alſo, that the experienced utility of the new ſyſtem juſtifies the meaſure; for it has continued, with ſome little alteration, ever ſince.

This new Committee conſiſted of the Company's Civil Servants, who had commiſſions on the net amount of the Revenue. Mr. Burke ſays, their emoluments were about 62,000l. a-year.—Here you will obſerve, that the difference of the two ſyſtems of collection is this—one Council or Committee did the buſineſs of ſix; and that Council, inſtead of being remote from the Preſidency, was on the ſpot.

—This is all the change which I can perceive; for the old and the new Revenue Board were alike ſubject to the controul of the Supreme Council. Mr. Haſtings appointed Goonga Govind Sing, a native, to be Dewan, or Steward to this new Revenue Committee.

It happened ſoon after the formation of this Council, that Deby Sing, the man of whom you have heard ſo much, was accepted by the Committee, as a Tenant for the province of Rungpore, at an advanced rent, for the term of two years. The firſt year things went on ſmoothly; the rent was paid, and no complaint made; but towards the cloſe of the ſecond an inſurrection broke out in Rungpore, occaſioned, as Mr. Burke ſtated it, by thoſe abominable cruelties committed by Deby Sing and his agents, and which were detailed in Weſtminſter Hall ſo much to the prejudice of Mr. Haſtings's character.

Here a queſtion muſt naturally ariſe in the mind of every reader—How is Mr. Haſtings anſwerable for the conduct of Deby Sing? Mr. Burke contends, that his changing the ſyſtem of collection makes him anſwerable for all its conſequences. "I conſider the Priſoner (ſaid Mr. Burke, with great energy) reſponſible for all the acts of Deby Sing, and doubly reſponſible, if he knew him to be a bad character at the time he was accepted Tenant to Rungpore." The firſt part of this aſſertion muſt have been made in the warmth of elocution; and I dare ſay, Mr. Burke would give it up on reflection.

But to the ſecond, I ſuppoſe every perſon will agree. If the alteration in the collection of Revenues was made to increaſe their amount, it was certainly a very laudable act, particularly at that period, when money was ſo much wanted for carrying on the war. And though the change of ſyſtem may have opened an inlet for Deby Sing and others, yet Mr. Haſtings muſt be conſidered as the very remote, and perfectly innocent cauſe of whatever happened in conſequence of his admiſſion. But, by the bye, I do not ſee why Deby Sing might not have been employed in the collections under one of the Provincial Councils, as well as under the preſent Revenue Council; and the ſame things have happened in that way as in this. At any rate, it is abſurd to charge the author of any innovation with every conſequence that he could not reaſonably foreſee at the time of making it.

Mr. Burke's reaſoning would carry the offences he imputes to Mr. Haſtings up to Lord North, as the miniſter who appointed or recommended him to the office of Governor General.

If Mr. Burke can eſtabliſh his propoſition, that Mr. Haſtings changed the old ſyſtem with a view of increaſing his own power and emolument, and to let looſe his bribe-brokers and plunderers (as he calls them) on the country, Mr. Haſtings is certainly reprehenſible in the higheſt degree. It would be a much heavier charge againſt him, than all the Twenty Articles thrown together into one ſcale.—Mr. Burke, you may be aſſured, is perfectly ſenſi-

ble of this, and nothing prevented his making it matter of charge, but the impoſſibility of proving the intention. Whoever attended to Mr. Burke in his opening Speech, and imputed any part of Deby Sing's guilt to Mr. Haſtings, muſt have given that Gentleman credit for the motive he imputed to Mr. Haſtings.—I ſay imputed, becauſe Mr. Burke did not ſay he could prove that avarice and love of power were the motives, but that he could impute the Priſoner's conduct to nothing elſe. He gave his reaſons for thinking as he did. He ſaid, that Goonga Govind Sing was a dependant on Mr. Haſtings; that in the capacity of *Dewan* he had the whole management of the Revenue buſineſs in his own hands; and that the members of the Committee ſunk into inſignificance—that Deby Sing was introduced into office by the influence of Goonga Govind Sing; and that Mr. Haſtings, through the medium of the latter, was the real, though concealed mover of every thing.

There is one thing which Mr. Burke in his hurry ſeems to have overlooked, or, perhaps, not to have credited; I mean the evidence of Mr. ANDERSON, who was one of the Revenue Committee, and by whoſe recommendation, joined to Mr. Shore's, Deby Sing got his appointment. By this Gentleman's evidence it appears, that Goonga Govind Sing was averſe to the employing of Deby Sing, and remonſtrated, though ineffectually, againſt it. It appears alſo, that the appointment of Deby Sing originated in the Revenue Committee, and not in the

the Supreme Council. Mr. Haſtings, it is true, knew of it, and diſapproved it; but yielded to the recommendation and wiſhes of the members of the Committee above-mentioned.

This breaks the chain of Mr. Burke's reaſoning; for you ſee he traces it link by link in this manner: Deby Sing was the agent of Govind Sing, and Govind Sing was the agent of Mr. Haſtings. But Mr. Anderſon proves, that ſo far from Deby Sing's being the agent of Goonga Govind Sing, he was put into power contrary to the latter's inclination.—If Mr. Burke adverted to this circumſtance, and did not ſtate it, I make no doubt but you will think it a want of candour.

Major Scott, both in a ſpeech he made in Parliament, and in a pamphlet which he publiſhed, charged Mr. Burke with premeditated miſrepreſentation; but I by no means go that length. On the contrary, I think in the immenſe maſs of evidence, and different matter before him, he might eaſily overlook ſome parts, and thence be led into erroneous concluſions.—But I paſs over this, as foreign to my purpoſe: I am neither going to accuſe nor vindicate the conduct of Mr. Burke; but I muſt now inform you, that when the Council, or Committee of Revenue, were informed of the complaints made againſt Deby Sing, they ſent Mr. Patterſon, an aſſiſtant in that department, to inquire into the truth of them. He went into the province of *Rungpore*, where he collected a vaſt bundle of papers, filled with thoſe dreadful ſtories you have already heard

heard of. This, you are to obſerve, was an *ex parte* examination; that is, Mr. Patterſon heard only one ſide; and Deby Sing, as may naturally be expected, denied the facts.

The Committee of Revenue not thinking theſe reports of Mr. Patterſon ſufficiently authentic to ground a deciſion upon them, the Supreme Council deputed three European Gentlemen in the Company's ſervice, to inquire more minutely into the facts alledged againſt Deby Sing. Theſe Commiſſioners were ſworn in the ſtricteſt manner, to make a diligent, juſt, and impartial inquiry. They proceeded to *Rungpore*, and Mr. Patterſon either went with them, or followed them to that place. Great diſputes, naturally productive of delay, aroſe between the Commiſſioners and Mr. Patterſon; and you will think it ſtrange, when I tell you, that the Supreme Council, of which Lord Cornwallis is the head, did not come to a deciſion on this buſineſs till laſt November, though it had been then pending five years.

From inſpecting this deciſion, and the report of the Commiſſioners, upon which it is founded, it appears perfectly clear, that thoſe abominable cruelties, which ſo affected the audience in Weſtminſter Hall, never happened; but ſtill it is equally clear, that great oppreſſions did take place. Lands fraudulently and violently purchaſed, were reſtored to their owners, and large retributions were made to the ſufferers. A native, named Hurram, was held by the Supreme Council to be more culpable than

his

his principal, Deby Sing, but the latter was not acquitted.

Before I take leave of this ſtory, I muſt make this remark :—Mr. Haſtings's conduct ſubſequent to the accuſations brought againſt Deby Sing, ſeems to have been directly the reverſe of what one would naturally expect from a friend or patron. When he ſaw Mr. Patterſon's reports, he ſeems to have given more credit to them than any other perſon, for he cauſed Deby Sing's ſuſpenſion from office, under a conviction that no fair inquiry could be made whilſt his power continued, making at the ſame time a promiſe of indemnity, if the ſuppoſed criminal was found innocent.

There are other minutes of Mr. Haſtings's upon record, which ſhew his diſlike and diſtruſt of Deby Sing; and it is morally certain, that had Mr. Haſtings been any way implicated in the buſineſs, he muſt, and would have ſettled it long before he left the Chair. There was no want of time or means, had he thought it neceſſary to ſmother the truth.

If you read with attention what I have written in this letter, it will impreſs your mind very forcibly with the truth of the Latin adage, *Nimium ne crede colori.* The caution is applicable to all colourings whatever. Mr. Burke repreſented Mr. Patterſon's reports, collected in the manner I have ſtated, as indubitable truths. "Had he not found them on "the Company's records, he ſhould not have be-"lieved them;" but had he ſaid alſo, that though they are upon record, yet the authenticity of theſe re-

reports muſt depend on the veracity of the natives of the province of *Rungpore*; and if Mr. Burke had known thoſe people ſo well as I do, he would have received any narration from them with many grains of allowance. It is true, Mr. Burke did take notice of the Commiſſioners ſent to make a farther inquiry; but the manner in which he repreſented it, made the audience ſuppoſe, that their buſineſs was rather to ſmother the truth, than expoſe it. The Committee of Revenue, which was compoſed of old ſervants, were not to be led away by exaggerated complaints; they well knew that lying, which is held abominable in this country, is not ſcandalous in that. The moſt jealous man of his honour does not reſent being charged with falſehood. Amplification (I wiſh the word were expunged out of rhetoric) is uſed more in the Eaſt, than it is in Europe, by the moſt diffuſive orators.

It has oftentimes been a queſtion in my mind, whether the ſtudy of *Oratory* and *Rhetoric*, as a ſcience or art, is not more prejudicial than beneficial to ſociety. It is certainly beautiful and pleaſing; but, like moſt beauties, it is deceptive. It has more or leſs effect in proportion to the weakneſs or ſtrength of the hearer's mind. Oratory ſeldom miſleads the judge, but it does the jury, almoſt in every inſtance. The former ſees through it, but the latter do not. I have long adopted one rule for the guidance of my own judgement. I do not know whether you will approve or condemn it—It is this: the more a ſpeaker labours a point, the more I am in-

inclined to ſuſpect it; and conſequently more exact in weighing his arguments; and whenever I hear a declamatory ſpeech, full of ſtrong epithets, either for or againſt, I ſtrip the matter of all its dreſs, and then take a review of all the real information I have obtained. It is in this way I hear Mr. Burke's ſpeeches, and read Major Scott's pamphlets; and it is in conformity to this rule, that I have collected the matter which I mean to give you in the courſe of theſe Letters.

I have now done with the ſtory of Deby Sing, and have only to ſay, that it were to be wiſhed that Mr. Burke would take a review of all the circumſtances, and ſtate them candidly in ſome future ſpeech, as publicly as he did before; or think of ſome method of bringing them before the court in ſuch a ſhape as Mr. Haſtings might anſwer them.—This is no more than common juſtice, and I dare ſay, Mr. Burke and his friends will not think otherwiſe on this ſubject.

I have been often aſked to give my opinion of Mr. Haſtings's character. I have as much as poſſible declined it; for I think the opinion of one who has been under his command, may be juſtly ſuſpected. The queſtion is almoſt tantamount to aſking—"Did he ſerve or diſ-ſerve you?" However, with reſpect to the character before us, I can ſay this—I never heard him accuſed of *Avarice* or *Cruelty* even by his enemies, till I heard it from Mr. Burke in the Houſe of Commons. If he really is avaricious, he has carried on the moſt ſucceſsful hypocriſy for

thirty years, and in a manner of which I believe there exiſts no example.—With reſpect to cruelty, all who knew him by name or perſon in India, will acquit him of that crime: that part of his character he may leave to his enemies. He was always eſteemed humane and compaſſionate, even to weakneſs; and he knows that he has often been the dupe of fictitious diſtreſs.—In regard to his *political character*, I can only ſay, I have heard it applauded, and I have heard it condemned. But in the courſe of my life, I have ſo often found cauſe to change my opinion upon better information, that I ſcarcely ever fix it, but keep my mind open to conviction. The appearance of a natural object changes with the place of view, and it is only when the eye is in the center of obſervation, that it can ſee and judge of all its parts. The ſame holds good with reſpect to mental perception; but ſtrange to tell, though every man acknowledges the truth of the propoſition, very few take it with them into practice. It was a juſt obſervation of Swift's—we know a little, preſume a great deal, and ſo jump to a concluſion.

I once heard a gentleman of great elocution haranguing againſt Mr. Haſtings's conduct in a public coffee-room. He mis-ſtated many facts, and drew many wrong concluſions. I aſked him a few queſtions, when finding himſelf unqualified to anſwer them, he very coolly acknowledged he knew nothing of the matter. I could not reſiſt the momentary impulſe of ſaying, though perhaps rudely, that his know-

knowing nothing might have been a reaſon for his ſaying nothing.

I ſhall conclude this Letter with obſerving, that whatever errors I may fall into, in ſtating the ſubject matter of the preſent *Impeachment*, they muſt proceed from the head and not the heart. Mr. Haſtings neither ſerved or dis-ſerved me; I was known to him by name, but not by perſon, till a very few days before he left the Chair at Bengal; I therefore owe him nothing but juſtice, in common with all thoſe who ſpeak of his character and conduct.

LETTER II.

FIRST ARTICLE *of the* IMPEACHMENT

ON THE

BENARES CHARGE.

SIR,

I SHALL now proceed to ſtate the *Firſt Article* of the *Impeachment*, for you are to remember, that what I have already related, makes no part of the *Charges* voted by the Commons.

In peruſing my former letter, it cannot have eſcaped your obſervation, that had Mr. Burke's ſtatement been perfectly correct, it could have amounted to nothing more than ſuſpicion, and that ſuſpicion founded on imputed motives.

In order to give you a clear idea of the merit or demerit of the caſe I am now going to enter on, I muſt give you a general notion of the Indoſtan Government. The want of this preliminary knowledge renders the ſubject very perplexed and obſcure to Engliſh readers—many people alſo fall into great miſtakes, from comparing Eaſtern tranſactions with the laws of Great Britain.—Mr. Burke himſelf is not exempt from this failing.

The

The word *Indoſtan* ſignifies the *Country* of the *Hindoos*, who may be called the *Aborigines* of the country. Of this people you have read and heard enough, without needing that I ſhould add to your ſtock of knowledge. It is near 800 years ſince Indoſtan was firſt invaded, and partly ſubdued by the Mahommedans: but I date the commencement of the Mahommedan Government in Indoſtan, from the invaſion and conqueſt of it by Timur, or Tamerlane, as he is called in Europe. The deſcendants of this conqueror have ſat on the throne upwards of three centuries. You muſt remember, that when I ſpeak of the Government or Conſtitution of India, I mean the Policy or Adminiſtration adopted by the family of Timur. Being Mahommedans by Religion, they conſequently took the Coran for their guide in religious concerns; but in Politics they adopted the cuſtoms of the Tartars.

Before the conqueſt of Indoſtan by the Mahommedans, the country was in the poſſeſſion of many Rajahs; ſome were independent, and ſome were in a ſtate of ſubordination. Thoſe who ſubmitted, and made their peace with the conquerors, were permitted to hold their lands, upon paying certain ſtipulated ſums annually. In the courſe of their hiſtory, we find that the empire was divided into twelve Subahs, governed by as many Subahdars, whom you may compare to the Lord Lieutenant of Ireland. Theſe Subahdars were appointed by the King, and removable at pleaſure. In every Subah there

there was a Dewan appointed for the collection of the revenues from the Rajahs who held the lands.

I muſt here explain the meaning of the words Rajah and Zemindar, which, as I ſhall often uſe them, would, if not explained, be productive of much confuſion—Zemindar came in with the Mahommedans, it being a compound word of Arabic and Perſian derivation, and ſignifies Land-holder. Zemindary means the Lands in poſſeſſion of the Zemindar. Every man who held lands under Government was a Zemindar; but every Rajah was not a Zemindar, becauſe there are many who bear the name of Rajah, and yet have no land or dominion; neither was every Zemindar a Rajah.

The word Rajah is analogous to Lord, in its double ſenſe, as it may be a mere title of honour, or expreſſive of dominion. It is very common for the King of Indoſtan to confer the title of Rajah on any favourite Hindoo, and at preſent it may be purchaſed. The title is confirmed by a deed or writing, as Peerages are in this kingdom by patent. I muſt caution you to diſtinguiſh between names that are honorary, and have no particular duty or office annexed to them, and thoſe that are official; that are acquired and loſt together with the poſt or office; for example, any Hindoo may obtain the title of Rajah without any power or poſſeſſion being derived from it; and any Muſſulman may be created a Nabob in the ſame way.

You may ſometimes hear of Nazim and Nizamut; the latter ſignifies a great diviſion of the Empire, and

and the former ſignifies the perſon who preſides over it.

The Subahdars or Lieutenants had their deputies in different parts of their Vice-royalties, ſome of whom were of the rank of Nabob, and ſome of inferior degree. There were courts of juſtice in every diſtrict, which decided between ſubjects according to the Muſlim law in ſome caſes, and according to the Hindoo law in others. It often happened, that the Subahdars and Dewans were guilty of oppreſſion, and being beyond the reach of the ordinary courts of law, the injured had no redreſs, except by application to the throne. Moſt of the Emperors or Kings of Indoſtan were eaſy of acceſs to their injured ſubjects, and a certain portion of time was dedicated to the hearing of complaints in perſon. There are many inſtances of exemplary puniſhment being inflicted on ſtate officers of the higheſt rank and conſequence. A Subahdar could not deprive a Zemindar of his lands, provided he paid his ſhare of the revenue with punctuality, and committed no act of diſobedience: but if the Subahdar puniſhed him for a ſuppoſed offence, the King, upon complaint, made his own ideas of right and wrong the rule of his deciſion. No Emperor ſuffered his Subahdars to tyrannize, if he could prevent them, but inſiſted on their conforming to the laws of the Coran, as far as that book could guide them, and where it failed, to conform to the cuſtoms of the country, and in every thing to act conſcientiouſly. But when a Zemindar was diſobedient, the Subahdar chaſtiſed him

him according to his own diſcretion; and when the puniſhment was too ſevere, redreſs might be had by appealing to the Throne.

Such was the ſtate of the empire till the death of Alumgeer, better known in Europe by the name of Aurengzeeb. It was very uſual in the times of Akbar, Jehangeer, and others, for the Emperor's Sons to be Subahdars of diſtant provinces; and there are many inſtances of their rebelling againſt the authority of their Fathers. After the death of Alumgeer, violent contentions broke out between his Sons, which much weakened and narrowed the bounds of the empire. We have no hiſtory of the Mogul empire in Indoſtan, that comes down lower than the twelve firſt years of the reign of Alumgeer. It is ſaid that he forbade the writing of the Hiſtory of his own Times; yet I have a book which gives an imperfect account of his reign for thirty years after the above-mentioned period. I had alſo not long ſince, the peruſal of a book written for the uſe of a particular European Gentleman by a native of Delhi, which commenced with the death of Alumgeer, and ended with the acceſſion of Shah Allum, his preſent Majeſty. In reading their ſeveral hiſtories, I have obſerved that the bounds of the empire have been frequently changing, ſometimes more narrow, and ſometimes more extenſive, and that the Mogul authority was never univerſally acknowledged throughout Indoſtan. Their hiſtory is nothing but a ſeries of rebellions in different parts of the empire, or perhaps more properly, of ſtruggles for

for independency, made by the Indian Rajahs againſt ſovereignty, which derived all its rights from the ſword, under the direction of an intolerant religion.

I know Mr. Burke denies the exiſtence of arbitrary power. If by this he means, that no man ought to exerciſe arbitrary power, or to make his own will the rule of action, I readily ſubſcribe to his opinion. But if he means, that no ſtate ever was governed by the diſcretionary will of one man, his aſſertion is poſitively wrong.

The word arbitrary is liable to much cavil: people generally connect the idea of injuſtice and oppreſſion with it; but I do not uſe it in that ſenſe. When I ſay that a man poſſeſſes arbitrary power, I mean that he is at liberty to act as his own diſcretion may direct him. If he is a wiſe prince, he will uſe his authority to the good of his people; if not, he may act oppreſſively. Inſtead of arbitrary, I ſhall in future uſe the word diſcretionary; and when I mention diſcretionary power, I mean that the perſon poſſeſſed of it, is not obliged to conſult any judgment but his own. The Mogul Emperors, in political adminiſtration, are perfectly abſolute and diſcretionary, yet generally juſt in their deciſions. But in fact, how can they be otherwiſe than diſcretionary? The people have no Magna Charta to define their juſt rights: they have no word to expreſs Prerogative, nor durſt any writer there attempt to limit the rights of the Sovereign.

The ſubjects were ſometimes very patient under oppreſſion, and at other times flew to arms upon

trifling provocation. I beg here to be underſtood, not as an advocate for a deſpotiſm which denies the rights of the people, but only as ſaying that their rights are not defined in India, nor contended for againſt the ſovereign authority. I never met with an Oriental book that ſtarted the idea; but the general ſcope of all their writings is to convince Monarchs, that their true intereſt lies in conciliating the affections of the people. Almoſt every book abounds with this kind of morality; but I never read a line in any one of them, that tended to diſtinguiſh between the Prerogative of the King and the Rights of the People.

The inhabitants of India have a religious veneration for the family of Timur, and though they make little ſcruple at ſhedding Royal Blood, they hold it indiſpenſably neceſſary, that one of that race ſhould be on the throne. They are regardleſs of primogeniture, and as ready to acknowledge the youngeſt ſon as the eldeſt. There is no inſtance in their hiſtory, of a ſubject not of Blood Royal aſpiring to the Throne; but whatever his ambition may be, he performs every act of deſpotiſm in the name of ſome Prince of the Blood, whom he places upon the Throne for the occaſion. Since the death of Alumgeer the empire has gradually declined. Subahdars who had been removeable at pleaſure, fixed themſelves and their deſcendants in their reſpective governments; but their claims to perpetuity are founded on the King's weakneſs, and not on the cuſtoms of the empire. Subahdars now confer provinces and zemindaries on their dependants, without

out conſulting the King; and the Grantees accept their grants, without ſeeking the Royal confirmation. The caſe was very different in the days of Akbar, and ſome of his ſucceſſors.

I ſhall conclude this long, but neceſſary explanation, with obſerving, that all the acts which properly appertained to the Royal Authority, are now, of courſe and of neceſſity, exerciſed by the uſurpers: ſovereign Authority muſt exiſt ſomewhere. Such as I have deſcribed, is the actual preſent ſtate of every province in the empire, to which the Engliſh Government has conformed, only becauſe ſo it found it. I have been very particular in ſtating the former and preſent Conſtitution of India, becauſe I may often have occaſion to refer to it, and alſo becauſe no man can form any judgment of the merit or demerit of Mr. Haſtings in this Article of Impeachment, without a perfect knowledge of the government of Indoſtan.

Sefder Jung, a man of great rank and importance in the empire, was made Subahdar of the province of Oude, by the Emperor Mahomed Shah. The empire was then weak, but it has grown gradually weaker ever ſince; and as it has never been in the power of the King to recal the great Subahdars, the ſon and grandſon of Sefder Jung have retained poſſeſſion of Oude ever ſince the appointment of the latter.

The produce of Benares was an appendage of the Subahdary of Oude, and at that time under the Magiſtracy of Ruſtum Ally.

I find myſelf here under the neceſſity of making a ſhort digreſſion, in order to give ſome account of the parentage of Cheyt Sing; for you well know that he has been repreſented as a great Prince, which has led many people to conſider him in the ſame light as they do a Prince of the German Empire. To be ſure, the term Prince, like moſt other titles of rank, is very indefinite in its ſignification; and to this want of preciſion and exact analogy between Indian names and Engliſh names, I attribute a vaſt part of that confuſion and perplexity, which many readers complain of in the ſpeeches of thoſe Gentlemen who conduct the proſecution. Many of the apparent inconſiſtencies in the Minutes of the Supreme Council at Bengal would be reconciled, if this difficulty could be removed. Every perſon who ever attempted to tranſlate from one language to another, muſt have often found himſelf embarraſſed in a ſelection of correſpondent terms: and if this difficulty be great in comparing European languages with each other, how much muſt it be enhanced, in comparing European terms with Aſiatic, when cuſtoms, offices, and every thing are ſo different.

The grandfather of Cheyt Sing was a Bramin, named Monſeram, who at the time that Sefder Jung firſt obtained his Subahdary, had the management of a ſmall diviſion of land, yielding a revenue of about 500l. a year. His good conduct recommended him to the notice of Ruſtum Ally, the Aumeldar or Governor of the diſtrict of Benares, who made him his Dewan, or Steward. The management

nagement of Benares was left to his care, while his patron gave himſelf up to indolence and pleaſure. Monſeram took advantage of Ruſtum Ally's inactivity, and by intrigue, accompanied with offers of an increaſe of revenue, obtained from Sefder Jung, their common ſuperior, the diſmiſſion of his Maſter, and his own appointment to ſucceed him in the Government. The title of Rajah he obtained by purchaſe from the King, in the manner I have before deſcribed. He continued in his office till his death, and obtained a grant of the ſucceſſion to his ſon Bulwant Sing.

Sujah Dowla, ſon, and ſucceſſor to Sefder Jung, frequently wiſhed to diſpoſſeſs Bulwant Sing of the province of Benares; but as he, in quality of Subahdar, had made himſelf independent of, or at leaſt uncontrolable, by the Emperor, ſo Bulwant Sing was become ſtrong enough to diſpute the authority of himſelf. Their differences were always ſettled by a pecuniary compoſition, which the vaſſal in India generally has recourſe to, to appeaſe the anger of his offended maſter.

Cheyt Sing is the ſon of Bulwant Sing by a daughter of a Ragapoot Zemindar, who fell into his hands by the chance of war. The lady not being of ſo high a caſt as Bulwant Sing, could not legally become his wife; he however did marry her, in defiance of one of the moſt ſacred inſtitutes of their religion. By a former marriage, Bulwant Sing had a daughter, who was the wife of Doorgbegey Sing, and mother of Rajah Mahaſs Narain, the

preſent

preſent Rajah of Benares.—From this account, you may judge what pretenſions Cheyt Sing has to the title of Prince. The true light in which he ought to be conſidered, is that of a Steward or Truſtee for his ſuperior, the Subahdar, and removable at pleaſure. It is certain, that his grandfather Monſeram muſt have conſidered the adminiſtration of the province of Benares in that light, when he by intrigue ſupplanted his maſter, Ruſtum Ally, in the office.

There is a wide difference between a Zemindar who is the proprietor of the lands, ſubject to certain payments, and whoſe iſſue generally ſucceeds him, and an Aumeldar, Renter, or Steward, whoſe appointment is only temporary.

This is one of the points at iſſue between the Managers and Mr. Haſtings: for they repreſent Cheyt Sing ſometimes as an independent Prince, ſometimes as a tributary, and at other times as an ally. I muſt confeſs, that though I have often heard the Managers deſcribe the official character of Cheyt Sing, I never could put their ideas together in my own mind, ſo as to fix to him any public character at all. I don't know whether I have expreſſed myſelf intelligibly or not, but I mean, that were you to aſk me, in what light do they conſider Cheyt Sing's public character, I muſt anſwer, I cannot diſcover it. But it is moſt eſſential to the cauſe, to inquire into the nature of Cheyt Sing's rank and ſituation in the Empire; for I know many people look upon the diſplacing of him as the expulſion of a

King and the overthrow of a kingdom; whereas, in fact, it is nothing more than the chaſtiſement of an ennobled Steward or Truſtee.

In the year 1770, Bulwant Sing died, and as he was ſaid to have rendered ſome ſervice to the Engliſh intereſt during the war with Coſſim Ally and Sujah Dowla, the Court of Directors recommended him to the attention of their Preſidency at Fort William. Upon theſe ſuppoſed ſervices, Mr. Burke lays much ſtreſs, with a view of ſhewing the Engliſh ingratitude, in expelling his ſon. There are, however, Minutes of Council, ſupported by the evidence of Mr. Stables, which make theſe ſervices very doubtful. In compliance with the above-mentioned recommendation, the Preſidency obtained for Cheyt Sing, from Sujah Dowla, the ſucceſſion to his father's office. The deed of ſtipulation between the Subahdar Sujah Dowla and his appointed officer Cheyt Sing, is frequently called a treaty: that term may be very proper, but it is apt to excite the idea of an agreement between two contracting powers, independent of each other; whereas, in fact, it is of the nature of a grant. Sujah Dowla granted the adminiſtration, or aumeldary of Benares and Gazapore to Cheyt Sing, upon his paying a kind of heriot or fine, in preſent money, to the amount of 200,000l. and engaging to pay annually about 230,000l. This ſettlement remained undiſturbed for three years, when another negociation took place in favour of Cheyt Sing, of which Mr. Haſtings was chief conductor. The intent of this ſecond negociation

tion I do not clearly comprehend, unleſs it were for the purpoſe of guaranteeing the office to Cheyt Sing and his poſterity, and interdicting Sujah Dowla from exacting more than the rent already ſtipulated. But I think both theſe points were included in the firſt grant.

Be this as it may, in a very ſhort time, the Vizier Sujah Dowla wanting, or foreſeeing the want of money to carry on a war with the Rohillas, demanded of Cheyt Sing an aid to the amount of 50,000 l. He pleaded the guarantee; and the Company's ſervants interfering, the demand was abandoned, not becauſe Sujah Dowla thought he had no right to the aid, but becauſe he had not the certain means of enforcing it.

Here I muſt refer you to the conſtitution of the Empire, whereby you will perceive, that the interference of the Company was unconſtitutional in the extreme, not in one inſtance only, but in every ſtage of the buſineſs: it is reconcilable only to the *jus fortioris*, which, if acknowledged, legalizes every thing.—It is true, the Mahommedan government was founded on uſurpation; and I am afraid, if we carry our inquiries very far back, we ſhall find all governments in the ſame predicament. But when a government is ſettled upon ſome fixed principles, and there are rules and cuſtoms eſtabliſhed for the aſcertaining of rights, we may compare actions with thoſe rules and cuſtoms, and ſay of them, they do, or do not conform to the rules. For if we examine the validity of rules and cuſtoms, and allow nothing

thing to the operation of time, I am afraid that all the diſtinctions of right and wrong will entirely vaniſh.

In tracing up rights, we muſt ſtop ſomewhere, and ſhut our eyes. We can have no idea of right and wrong, but as it accords or diſagrees with ſome known rule, precept, or maxim. But the rules or laws of right and wrong with reſpect to property, not only vary in different countries, but are in a perpetual ſtate of fluctuation in one and the ſame country.—Now, if we examine the conduct of the Company's ſervants by the doctrine I have juſt laid down, we ſhall find it irreconcilable to the conſtitution of the Mogul empire, but perfectly reconcilable to what they conceived to be their duty, namely, to advance the intereſt of their maſters.

In their attempts to make Cheyt Sing as much as poſſible independent of the Subahdar Sujah Dowla, their policy was not to ſerve Cheyt Sing but to weaken the power of Sujah Dowla. He had been, and might be again, they thought, a formidable neighbour—Their idea was, *divide et impera*, and in effecting their views they conſidered not the legality of the means. The reſtrictions they laid on Sujah Dowla, they never meant to lay on themſelves. Mr. Fox ſeems to argue this point upon the Chriſtian precept, "Do unto others as you would that they ſhould do unto you." This is certainly an admirable precept, both in theory and practice, among ſubjects under one government; but the hiſtory of mankind ſhews, that it is impracticable in politics,

at leaſt I cannot find that it ever has been in uſe among ſtates and ſtateſmen, the moſt ſcrupulous of whom have never carried their obſervance of the Chriſtian precept farther than "to do unto others as they *knew* that others would do unto them."

There is ſomething very peculiar in this caſe: while all Miniſters of State have been applauded and honoured by their country, for making advantageous agreements and treaties with the neighbouring powers, without even inquiring into the means of obtaining theſe advantages, the Company's ſervants are called upon by their own countrymen to reconcile their political conduct to the rigid rules of morality.

I have ſhewn that the Company's ſervants exerciſed an authority which belonged only to the King; but in juſtice to them I muſt ſay, that they took things as they found them. They found the Royal Authority crippled, I may ſay, ſuſpended; and it was not the Engliſh intereſt to reſtore it. In the reign of Alumgeer, Cheyt Sing would not have ſought the Company's Guarantee to ſhield him from the demand of his ſuperior, nor would he have thought Sujah Dowla's grant of the leaſt validity againſt a ſucceeding Subahdar, nor againſt the Grantor, if he thought fit to revoke it. Bulwant Sing, and his ſon would, if they had had intereſt ſufficient, have procured a Sunud from the King, in expectation that he would ſupport his own act againſt the Subahdar. But as the Royal Authority was not efficient, Cheyt Sing thought a guarantee from

from the Company, who had 20,000 regulars, a much better ſecurity.

Here you obſerve Cheyt Sing was not afraid of a change of Subahdars, becauſe they were too ſtrong to be removed, and had aſſumed to themſelves ſovereign authority; but he could not truſt his maſter, and therefore called in the Company's ſecurity. The Company's ſervants came into the meaſure, becauſe, as I ſaid before, it was their intereſt to weaken the power of Sujah Dowla, by rendering Cheyt Sing as independent as poſſible.

I think I have ſhewn to a demonſtration, that the conduct of the Company's ſervants, of late, and of Mr. Haſtings in particular, is not inconſiſtent, when compared with the object of their employment, namely, the promotion of the Company's intereſt in India; though there may be apparent inconſiſtencies, when one part of their conduct is compared with another. To exemplify this: It was the intereſt of the Company to reſtrain Sujah Dowla's authority over his vaſſals, but not to ſubmit to the ſame reſtrictions themſelves. For my own part, I conſider Cheyt Sing as almoſt out of the queſtion; for if the Company procured for him immunities and advantages to which he had no claim, either from birth, inheritance, or rank, and afterwards thought fit to withdraw theſe immunities, he certainly had no cauſe to complain. He may be thankful for what he had received. If any perſon had a right to complain, it was Sujah Dowla, who was forced into grants he did not like to make, and reſtrained from the exerciſe of

the cuſtomary authority of his office; I mean with regard to the ſettlement on the death of Bulwant Sing *, and to the ſecond treaty negociated by Mr. Haſtings †; for when the firſt ſettlement was made with Bulwant Sing, Sujah Dowla was indebted to Engliſh clemency ‡, not only for the ſovereignty of Benares, but for the reſtoration of all his dominions, which he had loſt by the common mischance of war. No doubt he would have reſiſted the Company's ſecond application, if he had been ſtrong enough, and he would have complained of their injuſtice, had there been any power, able and willing, to redreſs the injury.

But to return to the narrative.—Sujah Dowla, the Subahdar of whom I have been ſpeaking, died in February, 1775, and his ſon Aſoph ul Dowla ſucceeded him in the Subahdary. Whether he was confirmed by the King, I know not, but he exerciſed all the rights of it, the ſame as his father had done. Cheyt Sing of courſe became his vaſſal and dependent.—It is evident Aſoph ul Dowla did not conſider himſelf in every reſpect as poſſeſſed of Sovereignty; and that he acknowledged the ſupremacy of the King in ſome points; for we find him purchaſing the rank and office of Vizier of the Empire, the duties of which were performed by a Deputy.—The new Subahdar being in want of money, demanded of Cheyt Sing the loan of 50,000l. by way of advance. He refuſed it, and the Council encouraged him in the reſiſtance.

* In 1770. † In 1773. ‡ In 1765.

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The Managers lay great ſtreſs upon this; for they ſay, if Mr. Haſtings and the Council would not permit either Sujah Dowla or his ſon to treat Cheyt Sing as a vaſſal, what right had they to treat him as ſuch when they became his ſuperior, or Lord Paramount? The anſwer is here as before. The Subandar of Oude had been formerly powerful enough to endanger the Company's exiſtence in India, and the Council wiſhed to abridge his power; but they did not mean to do away their own rights by the reſtriction they laid upon their neighbours. If this doctrine is not ſound, and if the conduct of the Company's ſervants is not juſtifiable upon theſe grounds, I am afraid that the conduct of every ſtate towards its neighbour will incur the like condemnation. Upon this principle all ſtates act: they all endeavour to preſerve the balance of power; but in the means of keeping up this equilibrium, they ſeem in general to loſe ſight of thoſe moral rules, which do, or ſhould guide the conduct of individuals living under the ſame government.

I muſt now call your particular attention to what immediately follows. Soon after Cheyt Sing's refuſal of the loan, the Supreme Council, of which Mr. Haſtings was Governor General, thought proper, but upon what grounds I cannot learn, to demand of Aſoph ul Dowla, the transfer, or ceſſion of Benares and Gazipore, to the Company. Mr. Haſtings remonſtrated againſt it, and contended, that the demand amounted to a flagrant violation of a treaty made between his father Sujah Dowla, and his heirs, on the one part, and the Company on the

other, ten years before. The Council perſevered, alledging the expiration of the treaty with the death of Sujah Dowla, and obtained the ceſſion of the ſaid provinces.

The Court of Directors thought it a violation of the treaty; but as they obtained the addition of 23 lacks of rupees annually to their revenues, they did not expreſs much diſſatisfaction, nor did they ever command reſtitution to be made.

It muſt appear matter of wonder to the unprejudiced obſerver, when he reflects that one Gentleman, who was a very efficient and and active Member of Council in procuring this extorted ceſſion, ſhould now be among the foremoſt to call Mr. Haſtings to account for breach of treaty. Mr. Haſtings's conduct towards Cheyt Sing, (taking it as the Managers repreſent it), ſinks into inſignificance, when compared with the conduct of the Supreme Council towards Aſoph ul Dowla. Their demand is not juſtifiable by the law of nations, nor by the laws of the empire: they had not even the plea of neceſſity; for the Company was then at peace, and in a flouriſhing ſtate. I do not mean to infer, that Mr. Haſtings is the more innocent, becauſe Mr. Francis is the more guilty. The perpetration of a great offence, cannot juſtify a leſs.—The only impropriety that ſtrikes one, is the not impeaching Mr. Francis for his ſhare in the violation of a treaty, whereby Aſoph ul Dowla was robbed of provinces worth 400,000 l. a year, whilſt Mr. Haſtings is impeached for compelling Cheyt Sing to pay an extraordinary aid,

aid, and that to a very ſmall amount, in the time of actual war.

This circumſtance muſt ſtrike every body very forcibly, who conſiders it for a moment. It cannot have eſcaped Mr. Burke; and why Mr. Francis is not impeached, I cannot yet underſtand. Mr. Francis probably would ſay, that the Subahdary of Oude reverted to the King, according to the cuſtoms of the empire, and that Aſoph ul Dowla was an uſurper. True, it did ſo; but then the King was defrauded of his juſt right.—Whether we conſider the King's rights exiſting in full force, ſuſpended by want of power to enforce them, or extinguiſhed by uſurpation, it never can be maintained that the India Company had any right to extort from Aſoph ul Dowla the ceded provinces, except that of ſuperior ſtrength, and a well diſciplined army.

Many people exclaim againſt the injuſtice of this act, and doubtleſs with great reaſon. But after all, it will be a complaint againſt human nature, for all ſtates do the ſame as often as they can. To judge of the conduct of ſtates, and ſtateſmen, we muſt conſider the duties of mankind; I mean thoſe rules by which it is generally allowed men ought to regulate their conduct in this world.—Compare it to a number of concentric circles, of which, ſelf is the center. We agree that a man ſhould conſult his own intereſt firſt; then that of his children, relations, neighbours, fellow-citizens, and countrymen; then mankind in general; and laſtly, all the animal creation.—Moraliſts may ſay, that all mankind ſhould be

be treated as one family,—It ought to be ſo, but it never has, and moſt likely never will be ſo. Whatever may be morally right, it is nevertheleſs certain, that States, dealing with each other, do not conſider themſelves bound by the ſame rules as citizens to citizens, living under one Government. The actions of political men muſt be pronounced good or bad, according to their agreement or diſagreement with thoſe rules which other Sovereign ſtates think themſelves obliged to follow.

Much has been written upon the law of nations, and a fine ſyſtem of univerſal morality has been erected; but the misfortune is, that there is no earthly power to enforce thoſe laws, and they are violated with impunity in this life every day.

Having ſhewn how Monſeram the grandfather, Bulwant Sing the father, and Cheyt Sing himſelf, came himſelf into the poſſeſſion of Benares, &c. and alſo the manner in which the Engliſh acquired the lordſhip over him and his territorial poſſeſſions; I am now to inform you, that after the ceſſion had been made for ſome ſhort time, it became a matter of debate in the Supreme Council, how and in what manner the provinces ſhould be governed.

Here I muſt obſerve, that Mr. Haſtings, who at this time was generally in the minority, had oppoſed the demand of Benares from the Subahdar Aſoph ul Dowla, upon the ground of its being a violation of a treaty made with his father Sujah Dowla. His arguments were ſtrong, but not weighty enough to make his colleagues abandon their intention

tention. Failing in that, and thinking it his duty to mitigate acts of injuſtice which he could not prevent, he propoſed to divide the rents of Benares, &c. between the Company and Subahdar, and to make it a kind of joint dependency on both. In this propoſal, which was rejected, Mr. Haſtings ſpeaks of "freeing Cheit Sing from the "remains of his "vaſſalage."

I muſt confeſs, I cannot comprehend how a man that was to pay rent to two landlords, and to be dependant on both jointly, could be ſaid to be freed from his vaſſalage. This propoſal was, as I ſaid before, rejected, and it ſignifies very little to attempt a recapitulation of the terms. Mr. Haſtings himſelf may throw a light upon this, notwithſtanding my want of comprehenſion; but Mr. Burke, in a very ingenious manner, heaps together Mr. Haſtings's arguments in oppoſition to the demand of the ceſſion before it was made, his arguments in favour of a modification of the demand, and his arguments in ſupport of the Company's right to an unqualified ſovereignty over the provinces, when they were actually ceded, and apparently confutes Mr. Haſtings by his own principles—that is, he ſhews a great contradiction.

But this contradiction will diſappear, when examined by the rules I have laid down in the preceding part of this Letter. I there ſaid, that right and wrong muſt be meaſured by ſome known rule, precept, or maxim, to which the diſputants agree to refer it. Mr. Haſtings firſt argued againſt the demand, upon the principle of its being a violation of

a treaty. He was over-ruled, and forced to abandon his principle, and conſequently could argue no longer from that. He then argued for a modification of the demand, and an equal diviſion of profits, on the principle of expediency. This alſo was over-ruled, and he was obliged to adopt a new principle, and conſequently vary his arguments. Hence ariſe the contractions complained of. I dare ſay, Mr. Haſtings retains his firſt opinion with regard to the moral rectitude of the demand: but it was uſeleſs to reaſon from a principle in his own mind which he could not impreſs on the minds of thoſe who had the power of adopting or rejecting.

The force of theſe obſervations muſt be felt very ſtrongly by every Cabinet Miniſter, and by every parliamentary leading Partizan in this kingdom. They often diſagree in private about the rectitude and propriety of the meaſures they are to adopt in public; but when they have ſettled the plan among themſelves, they all argue in ſupport of it. Were the public in poſſeſſion of the private opinions of every Cabinet Miniſter, and to compare them with their public declarations, there would appear a maſs of confuſion and abſurdity, that would aſtoniſh and diſguſt the mind of every perſon who took the trouble to compare them.

When Mr. Haſtings found himſelf beat in the arguments, or, I may ſay, over-ruled in the two motions he made on the ſubject of Benares, he was driven to adopt a new plan, and to conſider Cheyt Sing, in the character in which he then ſtood, as a

vaſſal

vaſſal or dependant on the Company. Upon this principle, a ſunud or grant was made out in the name of Cheyt Sing, according to the uſual form of ſuch inſtruments. This ſunud ſeems to have made him a Zemindar; but he was a Zemindar of their own making. Cheyt Sing engaged to pay about 130,000l. annually, as a rent, not as a tribute. Mr. Burke uſes theſe words ſynonimouſly, but they convey to me very different ideas. In the Perſian, the words are very different. When we hear of a perſon paying tribute, we annex the idea of a ſum of money paid annually by a weak Prince to a ſtronger, as the price of forbearance or protection; but when we hear of rent, we annex the idea of a compenſation for the annual uſe of lands, belonging to the Lord who receives the rent. If Cheyt Sing was tributary, the lands were his own: if a renter, they belonged to the Company.—But I have ſhewn, that whatever he was, he was the creature of the Company in every inſtance. In their acquired (uſurped you may call it) Sovereign capacity, the Company's ſervants reſtrained Sujah Dowla from exerciſing his uſual authority over his vaſſal; they obliged him to receive Cheyt Sing, though not the legal ſucceſſor to his father; and they obliged Aſoph ul Dowla to transfer the provinces of Benares, and the vaſſalage of Cheyt Sing, to the Company. If it be aſked, why did theſe ſervants of the Company interfere between a ſovereign and his vaſſal? it can only be anſwered by a queſtion—Why did the King of Pruſſia interfere between the Stadtholder

and the Dutch? Why did Mr. Pitt do the ſame? And why did the nation applaud ſuch an illegal, though very neceſſary, and political interference? He thought it the intereſt of his King and Country, to whom he was reſponſible for his conduct. The Company's Servants thought the ſame. Were Mr. Pitt to be impeached for his conduct in the Dutch buſineſs, he would either be acquitted or condemned, according to the ſtandard of juſtice by which he might be tried. If his accuſers placed the criminality, in his acting contrary to the intereſt of his country, he would be acquitted with honour; but if they placed it in the breach of the law of nations, or acting contrary to the true intereſts of Holland, it would become a very doubtful queſtion. This is preciſely Mr. Haſtings's caſe in this charge, and in the next that I ſhall treat of:—he is not accuſed of betraying the intereſt of his country; but he is accuſed of revoking or altering the conditions of the Company's grant to a Grantee, who gave nothing in return for it.—The obligation lay all on one ſide.

In addition to the powers Cheyt Sing had, when under the Subahdar, at the motion of Mr. Haſtings he was inveſted with the adminiſtration of criminal juſtice, and the power of coining money.

This does not ſtrike me as a politic meaſure; but though I can diſcover no good reaſon for increaſing Cheyt Sing's power, doubtleſs the Supreme Council were ſatisfied with its propriety.

Three

Three years after this ceſſion had taken place, (1778) a rumour prevailed in India of a French War, and Mr. Haſtings foreſeeing a probable want of money, propoſed to the Council, that Cheyt Sing ſhould pay 50,000l. extra, by way of aid towards the charges of the war. It was agreed to, and the money was paid, but not without much evaſive procraſtination. The demand was renewed the ſecond year, and the year following. Cheyt Sing did pay the whole, but his evaſions, procraſtinations, and excuſes, provoked Mr. Haſtings beyond the bounds of patience.

His delay in one inſtance endangered one of the Company's armies then on foreign ſervice. To theſe ſeveral demands, Mr. Burke imputes much criminality.—For, ſays he, "why do yourſelf what "you would not ſuffer another to do?" This is unanſwerable in Morality or Chriſtianity; but in Politics, it cannot ſtand a moment. As a Chriſtian, Mr. Burke argues well, not as a Politician. Had the Company inſtructed their Servants, in treating with the Natives, never to take any advantage of them, which they would not like to have taken againſt themſelves, they would not have had one acre of land in Indoſtan. And were Mr. Pitt inſtructed to make the Golden Rule, *do unto others as you would that they ſhould do unto you*, the guide of his political conduct, he would be but a ſorry Miniſter.

Were Mr. Haſtings tried for betraying the intereſt of his country, he would be acquitted of the

charge inſtantly; but the Charges againſt him are of that nature, as to render it extremely difficult to lay down any rule of juſtice by which we are to judge of his conduct. It is for this reaſon I have been very profuſe in treating of the Conſtitution of Indoſtan, and in tracing ſtep by ſtep the acquired rights of Cheyt Sing, and in ſhewing that the conduct of Political Men cannot be tried by rules of Morality. Were Mr. Haſtings tried by the cuſtoms of Indoſtan, I mean, if his conduct towards Cheyt Sing were compared with the treatment Vaſſals uſually receive from their Superiors, it would be thought lenient, and not in the leaſt repugnant to the cuſtoms of the Empire. In interdicting Sujah Dowla from demanding more than the ſtipulated annual rent from his Vaſſal, Mr. Haſtings ſeems to have conformed to the practice of that Government to which he had recently ſucceeded; and in demanding from Cheyt Sing an extra aid in time of State Neceſſity, he was juſtified by a rule of right, or cuſtom, acknowledged by Bulwant Sing, his father.

The inſtance I am going to adduce in ſupport of this aſſertion, has been overlooked by both parties, or at leaſt not drawn into argument by either: but it appears to me to throw ſuch a light on the cuſtoms of the Indoſtan Government, that I ſhall digreſs a little to relate it.

In the year 1766, Sujah Dowla was hard preſſed by the Company for the payment of a ſum he then owed them. Being unable to raiſe the money himſelf

ſelf he called upon his *dependant Zemindars*, and amſong the reſt, upon Bulwant Sing, who contributed as his quota, three lacks of rupees, or 30,000l.—The next year Sujah Dowla repeated the demand; but as no extraordinary neceſſity exiſted then, as it did before, Bulwant Sing objected, and appealed to the Britiſh Government.

A deputation of three Engliſh gentlemen (Meſſrs. Cartier and Ruſſel, and General Smith) were inſtructed to inquire, among other things, into the nature of the diſpute; and if they found the diſputed demand to be part of a Nezeranah, or ſtipulated pecuniary compliment ſettled in the year 1765, they were, according to inſtructions, to compel payment from Bulwant Sing; but if it proved to be an increaſe of rent, they were to inform Sujah Dowla, that the Engliſh Government was bound to prevent any infringement of the Treaty. Sujah Dowla informed the Commiſſioners that he meant it as an annual and additional Nezeranah like that which he had obtained the preceding year. In anſwer to this, Bulwant Sing replied, that the Nezeranah, or extraordinary payment of three lacks the preceding year, was made on account of the extraordinary occaſion, namely, the neceſſity his ſuperior was under of fulfilling his engagement to the Company; but as that neceſſity no longer exiſted, he ought to pay no more than the ſtipulated annual payment.—The arbitrators were ſatisfied with Bulwant Sing's anſwer, and would not ſuffer an extraordinary demand to be made without an extraordinary occaſion to juſtify it.—Here you ſee Bulwant Sing acknowledges the right

right of his ſuperior to demand an extra aid to relieve the preſſing and immediate neceſſity, but objected to its being drawn into a precedent for an increaſe in his annual payments.

Had Cheyt Sing been deprived of his ſituation, without any offence or neglect of duty, he would not have been worſe treated than Ruſtum Ally was by Sefder Jung, at the inſtigation of Cheyt Sing's Grandfather, Monſeram.

Mr. Burke ſeems ſenſible that there is no way of fixing criminality on Mr. Haſtings, except that of proving that his conduct was influenced more by motives of private revenge than of public ſervice. To eſtabliſh this opinion, he ſtates that Mr. Haſtings was offended with Cheyt Sing for the part he acted when a conteſt for the Chair took place between the former and General Clavering. This is one of thoſe caſes which are incapable of proof. On Mr. Burke's ſide it is ſuſpicion; on Mr. Haſtings's, poſitive denial. How is it poſſible to determine the real motives of any man's conduct? Circumſtances may warrant conjecture, but in this caſe, circumſtances would make againſt the ſuſpicion.

General Clavering died in 1777, and no extra aid was demanded till 1778, and then not till a war was ſaid to be broke out in Europe, and one was actually commenced againſt the Mahrattas in India.

I ſhould have told you before, that during the ſecond year of making a demand of an extra aid from Cheyt Sing, his evaſive and refractory conduct obliged the Supreme Council to ſend two battalions

of

of ſepoys againſt him, the expence of which he paid, about 2000l. After that he offered through his agent, two lacks, or 20,000l. as a propitiation for his offence, which was accepted.

Upon the invaſion of the Carnatic in 1780, the Supreme Council required of Cheyt Sing to furniſh 2000 horſe, which demand was lowered to half that number. He anſwered, that he had but 1300 horſe, of which he could ſpare only 500, and that in lieu of the remainder, he would furniſh 500 matchlock men. Matchlock men are a kind of muſqueteers who fire with a match inſtead of flint: they are of ſome uſe to an army, but not much. His refuſal, and neglect to comply with this requiſition, irritated Mr. Haſtings, already out of humour with his former evaſions, ſo much, that he came to a reſolution of fining him, for which purpoſe he ſet off in Auguſt 1781 for the town of Benares. To enable himſelf to act with vigour and diſpatch, he procured from the Supreme Council a delegation of its full authority out of the Company's Provinces to himſelf. The fact was, the Supreme Council conſiſted only of two Members, Mr. Haſtings and Mr. Wheler. When together, the former was omnipotent; for having by Act of Parliament the caſting vote when the Members divided equally upon a queſtion, he could carry any point from his own authority alone. By this delegation of authority, Mr. Haſtings was the Supreme Council beyond the Provinces, and Mr. Wheler within them. Mr. Burke conſiders this diviſion of power as criminal.

I ſhall not waſte time to conſider this queſtion, as the ſame thing happened again in 1784.

Previous to his departure, Mr. Haſtings expreſſed to Mr. Wheler, and others, his intention of fining Cheyt Sing fifty lacks of rupees, about 500,000l. It does not appear that this threat was ever carried into effect, or that Cheyt Sing was ever informed of Mr. Haſtings's intentions. When the latter arrived at Benares, he ordered the Rajah to be confined, and a guard of ſepoys was placed over him. In a few hours afterwards, an affray aroſe between the Rajah's people and the guard. The event was dreadful—more than 200 of the latter were killed, and as many wounded: three European officers were among the former number—Cheyt Sing was reſcued, and a general inſurrection broke out in the province of Benares. I ſhall not enter into the hiſtory of the war, but content myſelf with ſaying, that it ended with the total expulſion of Cheyt Sing. It is ſaid, and I believe truly, that many offers, or ſolicitations, were made from the Rajah and his friends towards a reconcilement, but they were ineffectual; and indeed Mr. Haſtings, by rejecting all offers from Cheyt Sing, ſeems to have conformed exactly to the opinion of the Court of Directors, and the King's Miniſters, who wrote to Bengal, that after the maſſacre no countenance could be ſhewn Cheyt Sing, nor had they ever entertained an idea of reſtoring him.

There is an item of this Charge, which imports criminality to Mr. Haſtings for giving away the

Company's property in the plunder of Badgegur. In that fort Cheyt Sing had uſually kept his treaſure. He carried off all he could when he fled the country, and left his mother to defend the fort, which is by nature very ſtrong, being built on a rock. Of this every man in India will readily acquit Mr. Haſtings. No mathematical truth was ever impreſſed more deeply on my mind, than that Mr. Haſtings never meant to give away any conſiderable part of the Company's property. Advantage was taken of an unguarded expreſſion in a letter addreſſed to the Commanding Officer. Mr. Haſtings there very looſely ſays, that he conſiders the property which might be found in the fort as the right of the captors. The fort was ſoon after taken, and the Commanding Officer thinking he could juſtify himſelf under the words of the letter, inſtantly divided the treaſure, to the amount of near 300,000l. Mr. Haſtings calls it a private letter; but in that I think him wrong: he could write no private mandatory letters in his then ſituation. He founds the diſtinction of private and public letters on the addreſs; but this is too ſubtle and refined for military men. But the fact was, the expreſſion was not in the nature of a command, but only declaratory of an opinion, which upon reconſideration might, and would have been altered. The Officers knew that, for had they been ſatisfied of their having a clear indiſputable right, independent of Mr. Haſtings's letter, they would not have been ſo haſty in the diſtribution. All the criminality that poſſibly can be

imputed to this, amounts to nothing more than advantage taken of inadvertency. Mr. Haſtings tried to recover the divided treaſure, and certainly in ſtrict juſtice; if it was diſtributed under a miſtake, it ought to have been reſtored. This is my private opinion, confirmed by the judgement of the Supreme Court of Judicature at Calcutta: but upon an appeal made from that Court to the Lords in Council, it was determined that Mr. Haſtings's letter juſtified the diviſion.

I have now gone through the principal parts of the *Firſt* (or, as it is commonly called, the *Benares*) *Charge*, as far as relates to Cheyt Sing; but you are to obſerve, that the Adminiſtration of the Country, after his flight, is made criminal matter againſt Mr. Haſtings, and furniſhes ſeveral items of the latter part. Of thoſe I ſhall ſpeak briefly in my next letter, and ſhall conclude this with ſtating the principal points upon which the Charge, as far as I have gone, will probably turn. To make it more clear, I will give it in the air of dialogue.

The *Firſt Queſtion* is—In what relation did Cheyt Sing ſtand to the Company at the time an additional ſum of five lacks, or 50,000l. was demanded of him?—According to my idea, a Zemindar of the Company's making.

Second Queſtion.—What is a Zemindar, and what are his rights?—By the conſtitution of the Mogul empire in Indoſtan, a Zemindar was a landholder, deriving his title from a royal grant, and ſometimes by a vice-royal grant, called in India a Sunud.

Third

Third Queſtion.—Was ſuch a grant revocable?—The ſame authority that gives can revoke, in the ſame manner as a legiſlature can repeal an act of its own making. The Emperors did it, the Subahdars did it; the Indoſtan hiſtories abound with examples of it.

Fourth Queſtion.—In what light does the Company ſtand in India, compared with the conſtitution of the empire?—As an uſurping Subahdar, certainly, with reſpect to Benares, and I think the ſame with reſpect to the province of Bengal, for they have committed acts of forfeiture. If the King were in a ſituation to enforce his own rights, the provinces are out of the queſtion; but as to Benares, it was a ceſſion from one uſurper to another.

Fifth Queſtion.—What are the powers of the Supreme Council in Bengal?—The Company, under charter, have a right to hold lands, &c. and to exerciſe ſovereignty in India. The Supreme Council are the delegates of the Company, the majority of whom I take to be acting Subahdar of all the Provinces they hold in the Mogul empire. I therefore conſider the Council, with reſpect to the empire, in the ſame light as I do Aſoph ul Dowla the Subahdar of Oude.

Sixth Queſtion.—In making a demand upon Cheyt Sing, now conſidered as a Zemindar under the Subahdar of Bengal, for five lacks of rupees, upon the eve of a war, was it repugnant to the cuſtoms of the empire?—I do not know whether I am correct in calling the Company Subahdar of Bengal, for I think the

the King granted them the dewanay or revenue only; but in ſpirit, if not in letter, they are the Subahdar, for the revenue and army are both in the power of the Company. But to anſwer the queſtion, I ſay it was not repugnant to the cuſtoms of the empire.

Seventh Queſtion.—Is it cuſtomary for the Subahdars to call on their Zemindars to furniſh troops in time of war?—That is the mode in which ſuch large armies as we read of in their hiſtories, are ſo ſoon collected. I have noticed many of theſe circular mandates.

Eighth Queſtion.—How were the Zemindars treated who diſobeyed theſe orders?—It is the common policy of Indian Chiefs, if they think their Lord Paramount is in danger of being defeated, and of loſing dominion, to collect their troops and to ſtand neuter. If the event proved favourable to the latter, they made the beſt apology they could. Sometimes the offended maſter would deprive them of their tenures, and at other times accept a pecuniary compenſation.

Ninth Queſtion.—In fining, or rather in intending to fine Cheyt Sing, for not furniſhing the required number of troops, and for evading, as much as he could, the payment of the extra demand, did Mr. HASTINGS act according to the cuſtoms of Indoſtan?—Not exactly. Mr. HASTINGS relied upon the awe which the Britiſh name ſtrikes into the mind of a native of India, and went with a very ſmall force, whereas a native Subahdar would have marched againſt his vaſſal, taken him priſoner, and per-

perhaps never have re-inſtated him; or perhaps he might have accepted a pecuniary compenſation.—The puniſhment would have been diſcretionary, and the weight of it would have been more or leſs, according to the natural diſpoſition of the Maſter, and the preſſure of circumſtances.

The queſtions hitherto, concern the cuſtoms and laws of Indoſtan; and the anſwers, I can ſay with great confidence, are ſuch as every man who ever was in India, and enabled to read their hiſtories, muſt ſubſcribe to.

Queſtion.—Wherein does the difference conſiſt, in this ſtatement of Cheyt Sing's ſituation, and that of the Managers?—They conſider him as a tributary Prince, and that when a Sovereign has entered into a treaty with his Tributary for a certain ſum of money, and that is actually and regularly paid, he cannot demand more, without a violation of the treaty, and loſs of honour. I conſider him as a ſubject holding lands under his Sovereign's grant, revokeable at pleaſure, or liable to alteration. I have ſhewn that Cheyt Sing's grandfather obtained the province of Benares, as an act of favour Sefder from Jung, and that Ruſtum Ally was turned out of the ſame office with little ceremony, and leſs credit to his ſucceſſor. I have ſhewn alſo how Bulwant Sing, and his ſon Cheyt Sing, became poſſeſſed of the provinces, in which there are certainly no marks of Princely power or authority. If Cheyt Sing is to be conſidered as a ſubject to the Subahdar of Bengal, or to the Company (and I am ſure no evidence given at the bar, nor

nor any arguments from the Managers, have impreſſed my mind with a contrary notion) I ſhall then ſhew that he could have no pretence to refuſe the payment of five lacks of rupees, nor to withhold his troops from the ſervice of the ſtate to which he was ſubject.

In every Sovereign State (by which I mean a ſtate that is not under the legiſlature of another) there muſt exiſt a legiſlature, or a legiſlative power; I think this is ſo evident that I need not argue upon it. The legiſlative power in a Sovereign State, may be in the hands of one man, or in the hands of an indefinite number: if in one man, we call it an abſolute monarchy, or deſpotic government; if in the hands of many, it may be a limited monarchy, like ours, an ariſtocracy or democracy. Now I ſay, there is no ſtate where the ſubject has any allowed right againſt the legiſlature, whether in the breaſt of of one man or many. To exemplify this, though the King cannot deprive me of my property, nor compel my ſervices beyond what is already fixed for me, yet the legiſlature can increaſe the tax upon my lands, ſo much as to make it not worth my holding; it may take them away for public uſes; it may compel my perſonal ſervices; in ſhort, it may do any thing.

Blackſtone ſpeaks of the omnipotence of the legiſlature over all rights. I do not mean to deny the natural rights, of mankind, becauſe whenever a legiſlature becomes too oppreſſive, the people will and *do* rebel, and then every thing goes back to firſt prin-

principles. But what I mean is, that as long as people agree to ſubmit to the laws in being, and to acknowledge a legiſlative power, the allowed or aſcertained rights of the people are nothing that I know of; for if neither my perſon nor property are out of the controul and diſpoſal of the legiſlature, I ſee nothing that I can call unalienably my own.

In India there is no Parliament to make laws; there is no Magna Charta to define the rights of the people; there are no law books to define the prerogative of the King. The King has now, as far as his dominion extends, all the executive power of his Majeſty King George, and all the legiſlative powers of the Three Eſtates of this kingdom.

Here I wiſh you to ſtop for a minute, and to conſider the power of our legiſlature:—What is it they cannot do, and what have they not done?—They make laws and repeal laws; they make things poſitively criminal, which are not naturally ſo; they puniſh by impeachment and attainder, offences againſt the ſtate, not by any known rule of puniſhment, but according to their own diſcretion. When money is wanted, they levy it on the ſubjects, in which the majority of legiſlators exerciſe their own judgements.—The Emperor of Indoſtan having all theſe powers in his own hands, is juſt as abſolute and diſcretionary as our legiſlature, but not more ſo.

We certainly have leſs to fear from the caprice or injuſtice of a divided legiſlature, than from that which exiſts in the breaſt of one man. In this conſiſts

ſiſts all the difference. But to what are we indebted for this very valuable difference? To the chance of war. Our anceſtors ſtruggled with tyranny, and were ſucceſsful; they have with wonderful wiſdom and ſagacity ſecured the conſtitution againſt the tyranny of one man; but it is not yet done againſt the tyranny of many. I do not mean to inſinuate, that any legiſlature is, or ever was tyrannical; but that if the majority of both Houſes, with the concurrence of the King, were inclined to bear hard upon an individual, I do not ſee how it can be prevented.

The Indian Chiefs have alſo ſtruggled for liberty, but they were not ſucceſsful, conſequently they are under the dominion of one man, inſtead of being under the dominion of many. This ſelf-concentered power, which the Great Mogul, or Emperor of Indoſtan uſed to exerciſe in a very great extent, and now in a ſmall one, his Subahdars, now exerciſe over their reſpective juriſdictions. Whether they have juſt right to ſuch power, is foreign to the preſent queſtion; but ſuch they have and make uſe of on all occaſions. Such is the power which the Company's ſervants, in quality of Subahdar, or Adminiſtrators of the Government of Bengal, have, and muſt exerciſe for the good and benefit of their maſters, and the people under their command. In time of war and general neceſſity, they muſt make as free with the property of individuals as the legiſlature does here. If the Company's ſervants were executive only, and had a Parliament to refer to, it would be otherwiſe; but being both executive and legiſlative,

tive, there can be no private property in the Company's provinces exempt, when wanted from the public ſervice. If there be any ſuch, the poſſeſſor is in a better ſituation than any man in this kingdom.

Here ſeems to be the rock upon which Mr. Burke originally foundered. He conſidered a grant made to a ſubject by an adminiſtration poſſeſſed of legiſlative and executive powers, equally binding with a treaty made between two independent ſtates, or between a Sovereign and his Tributary. There can be no treaty between a legiſlature and a ſubject. A legiſlature cannot bind itſelf; if it could, it would do away its own powers, and ceaſe to be a legiſlature. If it be denied, that the Company's ſervants have a legiſlative, or which is the ſame thing, a diſcretionary power over the inhabitants of their own provinces, I would aſk who has it? Somebody muſt have it. —It cannot be exerciſed by the King of Great Britain, for he has done it away for a time by charter: it cannot be in the direction, becauſe they have delegated all they had to the Supreme Council; nor can it be in our Parliament, becauſe they have alſo delegated all they had to the Supreme Council; I do not mean to ſay, that theſe delegates are not anſwerable to the Company and to Parliament for their conduct: they moſt aſſuredly are anſwerable for every abuſe of authority. But I mean, that as long as they remain in the adminiſtration, they muſt neceſſarily exerciſe over the natives of the provinces, the ſame powers which the legiſlature here exerciſes over the

ſubjects in this kingdom: they muſt make laws and regulations as occaſions demand them: they are at too great a diſtance to conſult the treaſury board, or the Court of Directors; they muſt act immediately or not at all. I conſider the Supreme Council to ſtand much in the ſame relation to the Company their maſters, as the Subahdars did to the Emperor when the empire was in a flouriſhing ſtate; they were entruſted with abſolute powers, but they durſt not abuſe them.

I may here be aſked, how and by what rule of right and wrong ought Mr. Haſtings to be tried? I anſwer, in the ſame manner as he would have been tried under Akbar, had he been a Subahdar in thoſe days. That Emperor would have liſtened to no ſubtle diſtinctions between tribute and rent; to no contradictions in minutes of Council at different conſultations: he would have made the *lex rationis* his guide: he would have ſaid, Has my delegate uſed the power I entruſted to him for the ſervice of the ſtate, or has he been cruel and oppreſſive to the ſubjects I put under his command? Has he treated a refractory Zemindar worſe than my other Subahdars, or I myſelf ſhould have done on the like occaſion? He would have conſidered the cuſtoms of the empire, and neceſſity of the caſe.

I have frequently heard it alledged againſt Mr. Haſtings, that the demand from Cheyt Sing was partial and unjuſt; and that in caſes of ſtate neceſſity, every Zemindar under the Engliſh Government ſhould have contributed alike; but this objection vaniſhes, when it is recollected that Cheyt Sing held

his Zemindary very different from any other. His annual collection was near fifty lacks, out of which he paid the Company only twenty-three and a half lacks, ſo that he had a balance of twenty-ſix lacks of rupees to ſupport his troops and houſehold; whereas, no exertion whatever could have increaſed the revenues of Bengal and Bahar: they were already ſtrained as far as they would bear, and in ſome caſes, beyond.

No Mogul Emperor would have conſidered a Zemindar holding under a Subahdar's Sunud, as an independent Prince, or as a Tributary. I ſhould like to hear Mr. Fox take up this ſide of the argument. No man can entertain a higher opinion of that gentleman's talents than I do; but I often ſuſpect, that what he wiſhes to impreſs on the public, is not deeply impreſſed on himſelf. He ſeems to act and ſpeak, as if he thought right and wrong nothing more than light and ſhade, and that by a ſkilful diſtribution of colours, he may convert one into the other at pleaſure. Were I upon terms of intimacy with Mr. Fox, I ſhould like to aſk him, as a friend, what Mr. Haſtings ought to have done, and to put the following queſtions for his candid anſwers:

Ought money to be raiſed for the public ſervice, or not?

In India, where the wealthy draw all their riches from the poor to ſupport themſelves in luxury, and to make good their payments to the Government, ought any extra demand for money, in time of war, to fall on the rich or not?

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As there is no Parliament in India, in whom did the power of aſſeſſing taxes, &c. reſt? Was it in the Supreme Council, or where did it lie?

As Mr. Haſtings could not borrow on bond, nor draw on the Company, being prohibited by Parliament, what ſhould he have done to raiſe money?

In all I have ſaid reſpecting legiſlation in India, I do not mean ſpiritual law, nor the laws of property between individuals, for theſe are out of the preſent queſtion; I mean the rights of the people with reſpect to the ſtate; and I think I have abundantly ſhewn, that no private property is, can, or ought to be ſecure, when the ſtate ſtands in need of it. In the beſt regulated ſtates, individuals are ſuffered to hold property only upon theſe conditions—that they muſt give up a part, or the whole, whenever the whole ſociety calls for it.

Before I quit this ſubject, I cannot avoid making a few remarks upon the nature of ſtate criminality.—Mr. Pitt held Mr. Haſtings juſtifiable for making the extraordinary demand of five lacks, or 50,000l. and argued it much on the ſame principles I have done; but he condemned him for the intended fine. Surely Mr. Pitt did not conſider, that an unexecuted intention, except it concerned the life of Majeſty, was never held criminal by any laws in this world. The fine propoſed was large, but not more than Cheyt Sing was well able to pay, as the event demonſtrated. Add to this, the fine was to relieve the diſtreſſes of Government, then almoſt at

its

its laſt gaſp: ſo that if the intention had its demerit on one ſide, it had its balance of merit on the other.

The diſagreement of opinion with reſpect to the criminal points of Mr. Haſtings's conduct, between the two leaders of the Houſe of Commons, Mr. Fox and Mr. Pitt, has frequently brought to my mind ſome very ingenious arguments I formerly read in an Oriental manuſcript, where the author proves, or attempts to prove, that right and wrong are mere ideas, or creatures of imagination.

Much pains have been taken to prove inconſiſtency in Mr. Haſtings's opinion, delivered at different times.—The Council were perpetually making and reſcinding reſolutions, all the time I was in India, both in the civil and military eſtabliſhments.—A perſon who had ſeen them at a diſtance, would have conſidered the conduct of the Supreme Council as a courſe of experiments for the diſcovery of knowledge. But when we conſider the jarring intereſts of the members of that Council, that the balance or caſting vote was perpetually ſhifting from one ſide to the other, that the Governor General had his own friends to keep ſteady, and to provide arguments to meet the objections of his opponents upon almoſt every queſtion, we cannot be ſurpriſed at the moſt glaring contradictions.—I do not ſay that ſuch are to be imputed to Mr. Haſtings; but I do not ſee how it was poſſible for him to be exempt from them.—A Governor could never be aſſured of carrying into effect any reſolution that paſſed; for it frequently happened, that the abſence or death of a mem-

a member gave a ſudden turn to the balance, and new meaſures were immediately adopted.

It would not be difficult to trace this very affair of Cheyt Sing up to the ſame ſource. For I am ſtrongly inclined to believe he never would have diſputed the demands of Government, either for money or troops, had he not known the diſſentions which prevailed in council, and buoyed himſelf up with the hopes of ſeeing a change in adminiſtration favourable to himſelf. Whenever power is wanting to effect any plan or ſcheme, recourſe muſt be had to artifice, or it muſt be abandoned altogether. Mr. Haſtings never had power enough, except for a ſhort time, when Mr. Wheler and he were alone in council to effect any thing of himſelf. He was therefore obliged to do a number of things to ſecure the votes of his colleagues, which he would not have done if he had had the powers ſince granted to Lord Cornwallis.

But the ſame contradiction is apparent in our miniſters, and in our legiſlature.—In the former, meaſures change with men; and in the latter, we ſee laws made one ſeſſions, and repealed the next. If there were any power upon earth able to arraign the conduct of any legiſlature in the univerſe, it would not probably paſs without cenſure. But when we talk of contradictions in the minutes of Mr. Haſtings and his colleagues, what ſhall we ſay to one of the honourable Managers, who formerly defended the Governor General's conduct at Benares, and is now his accuſer on the ſame article?—I do not know how that Gentleman would reconcile his two parts to each other;

other: but were he to ſay, that in the firſt inſtance he was deceived, he would ſtill be open to cenſure for temerity, in attempting to influence others upon a ſubject of which he was himſelf ignorant. He cannot cover his head and his heart by the ſame ſhield.

I ſhall conclude with cautioning you, and any one who may read theſe Letters, againſt miſtaking my meaning, when I ſpoke in a former part of this Letter concerning arbitrary power. This I do, becauſe Mr. Fox ſeems to have miſtaken Mr. Haſtings's meaning in a like expreſſion.

I will exemplify and explain my ideas by calling your attention to the dictatorial powers granted to an individual by Rome, when a republic. The Dictator was made abſolute for a time, and armed with diſcretionary powers. His inſtructions were expreſſed in one ſentence—*Ne quid detrimenti reſpublica capiat.* Mr. Haſtings might perhaps ſay, that theſe powers were arbitrary. Mr. Burke would ſay they were diſcretionary only. The latter is the moſt correct, but they both mean the ſame.—They both mean, that a perſon armed with theſe powers may and muſt act from his own judgement, without conſulting any other.

If the Dictator acted properly it was a happy thing for the republic, but it depended on the ſenate, at the expiration of his office, to pronounce whether he had made a diſcreet and juſt uſe of his authority, or an arbitrary and oppreſſive uſe of it. But certain it is, that the Romans confiding in

the wiſdom of an individual, intruſted the Dictator with abſolute authority; but they never could be certain whether wiſdom and juſtice, or caprice and oppreſſion, would influence the will and conduct of this unlimited truſtee for the public. You will, from what I have ſaid, underſtand, that when I mention arbitrary power, I mean dictatorial, or ſuch as Rome conferred on her Dictators.

Such I take to have been Mr. Haſtings's meaning; but if I remember right, the defence of the Benares Charge, againſt which Mr. Fox inveighed ſo much, on account of this unguarded expreſſion concerning arbitrary power, was not penned by Mr. Haſtings himſelf. The charges were ſo numerous, and the time for replying ſo ſhort, that Mr. Haſtings's friend undertook part of the taſk for him; and I am almoſt certain, that this had been publicly mentioned by Major Scott in the Houſe of Commons in 1787, and this particular anſwer was afterwards proved by evidence in Weſtminſter Hall, to have been written by a Gentleman whom I have the honour of being acquainted with. Mr. Haſtings, therefore, does not hold himſelf reſponſible for it; but any perſon might juſtify it, by giving a proper explanation. The Gentleman never meant that Mr. Haſtings was poſſeſſed of that kind of arbitrary power which a man poſſeſſes over his ſheep, which he may kill, give away, or ſell; but, that having no perſon to conſult, he muſt act from his own judgement, and that Mr. Haſtings muſt anſwer for the juſt and diſcreet uſe of that abſolute authority with

with which he was inveſted, to thoſe from whom he received it. To this explanation I dare ſay Mr. Fox will ſubſcribe. I ſhewed to a demonſtration, that there muſt be in all ſtates an abſolute and diſcretionary power lodged ſomewhere; that it was often divided, and ſometimes neceſſarily veſted in one man.

In England, the executive and legiſlative powers are on the ſpot, and the former can conſult the latter in a few days, yet there have been emergencies ſo preſſing as to induce the former to aſſume a diſcretionary power which was not granted by the latter. Such was the Proclamation for ſtopping the Exportation of Wheat, in Lord Chatham's adminiſtration. I could quote other inſtances, but it is unneceſſary. It is, however, uſual to paſs a Bill of Indemnity by way of preventing its being drawn into a precedent. But this cannot apply to India, for there the Board, in their delegated capacity, muſt act upon every occaſion, to which no rule or written order can be applied, from their own judgement and diſcretion, accountable, as I ſaid before, to their ſuperiors, and bound to prove that their conduct was guided not by caprice or whim or perſonal gratification, but by conſiderations of public benefit.

From what I have ſaid, the true queſtions in Mr. Haſtings's caſe are—Did he uſe his authority, to the beſt of his judgement, for the good of his country, or for ſelfiſh and intereſted purpoſes? It is the intention only that can conſtitute criminality,

and of the intention people muſt judge from a comparative view of all the circumſtances.

When the Rebellion in Benares was extinguiſhed, and Cheyt Sing totally expelled, Mr. Haſtings, in ſettling the country, appointed Rajah Mehepr—rain, the next in lineal deſcent from Bulwant Sing, to the government of Benares, the adminiſtration of which was commited, under the inſpection of Mr. Markham, to his father Durbedgy Sing. The rent, which in Cheyt Sing's time was 23 lacks, or about 230,000l. was now raiſed to 40 lacks or 400,000l. There was ſome alteration made in the mercantile duties, and there were ſome penſions granted to a few native individuals, who, in the opinion of Mr. Haſtings, were deſerving of ſuch favours, as a recompence for their ſervices in aſſiſting to ſuppreſs the Rebellion.

I do not ſee much contradiction in Mr. Burke's and Mr. Haſtings's account of this tranſaction, nor do I clearly underſtand which are the criminal points on which it turns. It may be for granting the penſions, but the Supreme Council afterwards gave the meaſure their approbation. There are items or allegations which ſeem to imply or impute criminality to Mr. Haſtings for letting the lands at too high a rate; but I cannot ſuppoſe that what is eſteemed a virtue in a ſteward for an individual can be thought criminal in a ſteward for the public.

The increaſed revenue has continued ever ſince the year after the expulſion of Cheyt Sing.

The

The Supreme Council, upon a repreſentation by Mr. Markham, then Reſident at Benares, that Durbedgy Sing, through miſconduct, had failed in the ſtipulated payments, ordered him to be deprived of his office and impriſoned. A Jaghire, which had been allowed him for the ſupport of his office and ſtation, was alſo taken from him and re-annexed to the revenue.

The principal point in diſpute here is, whether theſe were the acts of Mr. Haſtings alone or of the Board conjointly; but whether they were the acts of one or the other, the meaſure appears to have been thought neceſſary, and the Board confirmed it. In exculpation of Durbedgy Sing, his ſon Mehepnarain and the widow of Bulwant Sing endeavoured to lay the blame on Mr. Markham; but as the one was a weak woman, and the other, from youth and want of cultivation, incapable of buſineſs, it ſeems Mr. Haſtings paid little attention to what they wrote. This alſo is made matter of charge, and ſo is the conferring of the adminiſtration of Benares on Jagger Deo, who ſucceeded Durbedgy Sing. The latter proved to be very unfit for the office, and was, on account of miſconduct in diſtreſſing the natives, afterwards diſmiſſed by the Board at the repeated ſolicitation of Mr. Haſtings. All the iniquities of this man are by Mr. Burke imputed to Mr. Haſtings; but it proves in this caſe as in that of Deby Sing, that Mr. Haſtings was of all others the moſt zealous to bring him to puniſhment.

The

The *Benares Article* concludes with ſtating, that the *Province* of *Benares* is deſolate and ruined, and that all the miſchief originated from Mr. Haſtings's miſconduct.

I ſhould have added, that Durbedgy Sing died while in confinement; and it was inſinuated by one of the Managers, that his death was owing to dureſs and poverty. It appeared, however, in evidence, that his dureſs was continued after Mr. Haſtings's reſignation, and that he died of diſeaſe contracted before his impriſonment.

I have now explained the principal points of this article; not all, for the allegations are very numerous and minute, and make it matter of criminality that Mr. Haſtings gave credit to an unauthenticated piece of intelligence received over land reſpecting the French war. By *unauthenticated* Mr. Burke means, not coming through an official channel, ſuch as the Court of Directors or Secretary of State.

The intelligence on which Mr. Haſtings and the Council acted was tranſmitted over land from Cairo by a Mr. Baldwin, the Company's Agent or Reſident in that city. It was alſo atteſted by eight other gentlemen at the ſame place. Chandernagore was taken from the French in a few days after the account arrived, and it was upon the credit given to Mr. Baldwin's information, that the firſt aid of five lacks was demanded of Cheyt Sing. It was well known in India at the time, or ſoon after Chandernagore was taken, that it was done without official intel-

intelligence, but it was univerſally thought a very laudable and ſpirited undertaking.

You ſee how difficult it is to avoid the imputation of criminality, and with what wonderful riſk every Governor acts, who in preſſing emergencies obeys the calls of duty in oppoſition to thoſe prudential cautions which are neceſſary to guard his conduct againſt legal cenſure. Occaſions are perpetually riſing, which call for inſtantaneous deciſion and execution: there is no time to conſult the opinions of thoſe who are ultimately to judge of the propriety of the action. Afterwards, when an inquiry takes place, the rectitude or criminality depends not on the fact itſelf, but on the conſtruction that may be put on it; and that conſtruction will vary according to the degree of knowledge and underſtanding of every one who is to paſs an opinion upon it. No man can judge of any ſituation he has not ſeen. Were Mr. Burke ſent out Governor-general to India, fettered as Mr. Haſtings was, he would ſoon ſay as he did once before, that what he thought demonſtrable in theory, was not reducible to practice; he would ſay there were difficulties diſcovered at a nearer view, that were imperceptible at a diſtance; he would no longer ſay, that India could be governed by the laws of Great Britain. I have often heard it aſſerted, that Mr. Burke made a declaration of that kind in one of his public declamations; but there appears to me ſuch a glaring abſurdity in the propoſition, that I am more inclined

to

to believe that it has been imputed to him by his enemies than that he ever ſaid it.

I ſhall take leave of this charge with a few obſervations, which may appear to be rather out of place; but I have reſerved them for the end, and for this reaſon—the whole weight of this charge reſts upon the unjuſt expulſion of a man ſometimes called a Zemindar, ſometimes a Tributary, ſometimes a Prince, and at other times an Independent Sovereign. Now mark with what kind of argument his title is ſupported:—at the time the Supreme Council, then very much divided among themſelves, were conſulting what privileges they ſhould grant Cheyt Sing, a number of minutes were given in to the Board by Mr. Haſtings and his colleagues, ſome of them apparently contradictory, and ſome I think impolitic. At length, however, a Sunud and Pottah were made out: the one is a kind of charter, and the other declares the terms and conditions.—Theſe Cheyt Sing received, and in return gave a Cubboleet, or a kind of promiſſory deed, to execute the terms impoſed on him. Now, one would ſuppoſe, that if Cheyt Sing had afterwards had a diſpute with the Council, and there had been any tribunal to decide between them, he would have taken his Sunud and Pottah in his hand, and ſaid—"This is my title; theſe are the conditions of my tenure: I am juſt what theſe deeds make me."—This is the cuſtom here in England, when the King's Grant comes in queſtion. The Judges look at the deed

deed or patent, and judge of the claimant's rights from that. But the Managers, in ſupporting the Rajah's right to ſovereignty, inſtead of ſaying to the Lords—"Look at the Sunud and Pottah, let the Clerk read them;" ſay—"Read Mr. Haſtings's minute of this day, and his minute of that—See what he thought of the Rajah's ſituation."

This method of conſtruing the nature of the Rajah's tenure is juſt the ſame as it would be, if the French King were to diſpute the Commercial Treaty, and in order to make his conſtruction good, to quote what one Cabinet Miniſter ſaid, or what another might ſay, at the time of making it. What would Mr. Pitt ſay to that? He would tell the French King—"As to what paſſed among ourſelves, is out of the queſtion: there is the treaty—We muſt abide by the letter and ſpirit of it, not by our debates and conſultations." This is preciſely the caſe with Cheyt Sing's title to ſovereignty:—it is not to be found in the deed; it is to be found only in the recorded conſultations of the Supreme Council, and there only by a forced conſtruction.

If the Managers quoted theſe opinions to ſhew their contradiction, it is very well; but if they are ſet up to ſupport Cheyt Sing's title to ſovereignty, it cannot ſtand for a moment. The Sunud makes him Zemindar, Aumeen, and Fougdar; that is, it veſts him with a power to collect the Revenues, and to maintain the peace of the country, without the leaſt hint at ſovereignty. There are no words of perpetuity, nor any which convey a tenure for life or

term of years: it is barely a confirmation of the Zemindary. The Sunud is drawn according to the uſual form of theſe inſtruments, and no man can read one of them with attention, without drawing this concluſion—that it was intended by the grantor to be *durante bene placito*, and no longer.

It is true, Mr. Fox carries his argument farther back, and ſays, that Sujah Dowla made the grant perpetual between his own heirs and the heirs of Cheyt Sing; promiſing and ſwearing by the Coran, that no increaſe ſhould ever be demanded beyond what was expreſſed in the deed of agreement; and that this grant bound Aſoph ul Dowla and the Company alſo. He adds alſo, that Aſoph ul Dowla could not transfer a greater or more extenſive right than he himſelf poſſeſſed. This laſt part is indubitably true, but the fallacy lies here—Sujah Dowla could not grant a title or right to Cheyt Sing, as Zemindar, which he did not poſſeſs himſelf, as Subahdar; for as Subahdar he had, according to the conſtitution of the empire, only a life tenure, or in fact, only during the King's pleaſure. And if we conſider him as a ſovereign, independent of the Emperor's controul, it is the ſame; for no independent Sovereign poſſeſſed of legiſlative powers can grant a ſubject any charter which his ſucceſſor may not take away. Search the whole hiſtory of the world, and ſhew, if you can, an inſtance of the contrary.

But to illuſtrate this, I will ſuppoſe Mr. Fox as advocate for Cheyt Sing, pleading his right before the Subahdar Aſoph ul Dowla.

I claim

I claim the Zemindary of Benares in behalf of my client, under this deed which your father granted.—"By the word of God, this agreement is made be-"tween me and my heirs, and you and your heirs, "and it ſhall never be deviated from. You ſee it is "perpetual."

Aſoph ul Dowla would reply thus—"In the firſt place, it was an extorted agreement, by the interference of your Engliſh protectors; but I ſhall not avail myſelf of that. My grandfather and father were Subahdars of Oude; they exerciſed ſovereign power, and I do the ſame: they were uſurpers, it is true, and ſo am I. The family of Timur are the ſame, and the difference of their claim and mine is, only in the length of time: they have been on the throne more than three hundred years—we have been ſovereigns only fifty, or thereabouts. The balance of preſcription is againſt us, but the power is with us. In my perſon, as Sovereign of this Subahdary, are veſted all the powers of your King and Parliament; that is, I am ſole legiſlator. My father was the ſame in his day; but you know that no legiſlature can bind itſelf, and that no King or legiſlature can grant immunities to a ſubject, which the ſucceeding one cannot take away: you muſt know that from the hiſtory of your own country. Remember your legiſlature ſtripped the church of all its lands; it has altered the ſucceſſion of the Crown; there is no act, however arbitrary, that your legiſlature has not done at one time or other. Now, Sir, I ſay, that my father, as Subahdar and Legiſlator

of Oude, could not bind me any ſtronger, than the legiſlature in the reign of George the Firſt can bind the legiſlature of George the Third.

"But of all men in this world, you are the laſt that I ſhould have expected this argument from:—you who contended that the legiſlature of Great Britain was competent to the annulling of a charter granted to the Eaſt India Company for a term of years, in as ſolemn a manner at leaſt as my father granted the Zemindary to Cheyt Sing. You had not patience to wait the expiration of a few years; but as far as lay in your power, broke through the moſt ſolemn engagements. Now, if you thought that you, as a Miniſter of Great Britain, could, with the conſent of Parliament, take away the charter from the Company, why could not I, as a Legiſlator and Sovereign of Oude, take away the charter my father gave to Cheyt Sing? If you ſay that I am not Legiſlator of Oude and its appendages, tell me who is. I have no Parliament; I am myſelf both King and Parliament; but if you ſay that the Emperor is the Legiſlator, it will ſerve your argument no better, for then my father could not do away rights which belonged to the Crown: he was only Subahdar for life at fartheſt, and could grant no perpetuities.—Beſides, our law is abhorrent of perpetuities; yours is the ſame; you allow private gentlemen to entail their eſtates only to a certain number of deſcendants; and as to the ſucceſſion of your Crown, you make it perpetual by Act of Parliament; but you every now and then bring in a bill

bill to correct, explain, or modify the former act, or to clog it with ſome new conditions.

"You miſtake, Mr. Fox; I hold all my poſſeſſions by the ſame tenure as my father did.—You have fallen into an error, by conſidering me as a limited monarch, whereas I am no more limited than your Three Eſtates are.

"I have ceded my rights in Cheyt Sing's Zemindary to the Company, not with free will, I confeſs; but I have done it to avoid a rupture. But in transferring theſe provinces to the Company, I give them over perfectly free, not as a ſovereign to his ſervant, ſubject to rent and obedience, but as one ſovereign gives over an iſland or country to another.—Afterwards, it is in the breaſt of a new Maſter to make what conditions he pleaſes."

The Managers are ſenſible that they could not ſupport Cheyt Sing's title by the laws and cuſtoms of the empire, and therefore they over and over again call the attention of the Court to Mr. Haſtings's minutes, and the reſolutions of Council. But ſurely the Board could annul their own reſolutions; nor could Cheyt Sing ſupport his claim on reſolutions never communicated to him. He muſt have recourſe to his Sunud and nothing elſe.—There are no words of perpetuity in it, nor a ſingle expreſſion that looks like a treaty between two ſovereigns.—It is couched in the ſtile of a Lord to his ſervant. If the Managers ſay that Mr. Haſtings, in ſome of his minutes, reaſoned ill, I ſhould join with them; but theſe contradictions and variations aroſe, as I ſaid be-

before, from the diſſenſions among the members of the council, and from the change of circumſtances, which unavoidably drove them to the dereliction of old principles, and to the adoption of new.

In my next Letter I ſhall treat of the Second Charge, viz. the Begums of Oude.

LET-

LETTER III.

SECOND ARTICLE *of the* IMPEACHMENT.

THE

BEGUMS OF OUDE.

I AM now going to ſtate the principal points at iſſue between the accuſers and accuſed, on the Second Article of Impeachment, namely, the *Begums of Oude.*—*Begum*, in the Perſian, ſignifies *Queen*; but it is a title in India given to ladies of very high rank, who are not of royal parentage. Such are the Begums of Oude. When the Nabob Sujah Dowla, of whom I ſaid ſo much in my former Letters, died in the year 1775, his Subahdary deſcended to his ſon Aſoph ul Dowla. He left behind him a widow, whom I ſhall diſtinguiſh, to avoid obſcurity, by the appellation of the *younger* Begum. He left alſo a mother living, who was the widow of Sefder Jung, whom I formerly ſpoke of as being the firſt Subahdar of his family in poſſeſſion of Oude.

It was the cuſtom of Sujah Dowla, as it is of many men in the Eaſt, to depoſit their treaſures in the Zenana.---Zenana is a Perſian word, ſignifying much the ſame as Seraglio, and is the place where the

women are lodged. It is by people of rank held very ſacred, and no perſon of the male ſex is permitted to enter it, except ſuch as are very nearly related. They have rules for regulating theſe exceptions; and thoſe who are allowed to ſee the women, ſuch as brothers, &c. are called *Mehrem.*

Some months after the death of Sujah Dowla, his ſon Aſoph ul Dowla turned his attention to the treaſures of his father.

Mr. Briſtow, who was then Reſident at Lucknow, in a letter to the Supreme Council, ſtates theſe treaſures to amount to near two million ſterling; but he ſays, that report made them more than double that ſum. There are two points of view in which the depoſit may be conſidered: had it been a caſe between private individuals, the Coran would have decided it, and the mother, if without a ſettled dower, and all her iſſue, would have had their reſpective ſhares, as ſettled by that book; but as Aſoph ul Dowla was a ſovereign, or at leaſt in the exerciſe of ſovereign power, the treaſures were generally conſidered as the property of the State.

I am of opinion, that in law, the Begum's Jaghire would have been conſidered as a proportional dower, and that ſhe would have had no ſhare of the treaſure in any event.

This is my idea at preſent, as far as I could collect from a ſmall Arabic Treatiſe on the Mahommedan Law, now in my poſſeſſion. There is alſo a large work now in the preſs, tranſlated by Mr. Hamilton and Mr. Anderſon, from an Arabic manuſcript, called *Hedaya,*

Hedaya, which contains a much fuller explanation of the laws reſpecting dowers, &c. than is to be found in the book above-mentioned. As this book will ſoon be publiſhed, it may be referred to; and it is to be lamented, that it has not been tranſlated long ſince, as it would have ſaved thoſe gentlemen who inquire into India matters from much error.

I remember having read in the *Hedaya*, that where the wife's dower is not ſettled at the time of marriage, they are guided by the cuſtoms of her huſband's family; thence I conclude alſo, that the Jaghire would have been conſidered as a proportional dower. I ſhall not argue the point of right, which is ſo indefinite, particularly in this caſe, where it may be conſidered in a private or public light, though much will depend on the opinion which the Lords may entertain on this queſtion: for if the treaſure left by Sujah Dowla in the cuſtody of his widow, were by political law the right of the ſucceeding Sovereign, or the legal property of his ſon, by the laws of the *Coran*, I do not ſee how the Begum could think herſelf much injured, let the reſumption take place when it would.

I muſt here digreſs for a minute, to take notice of ſomething I heard from Mr. Sheridan---He reprobated the idea of right founded on either of theſe grounds I have ſtated; and to maintain his argument, he told the Court, that the ſecurity of a Zenana is the title of a ſaint to the relics on an altar, placed there by piety, guarded by holy ſuperſtition, and to be ſnatched from thence only by ſacrilege.---

The inference he draws is, that becauſe the Zenana is ſacred, the treaſure was the Begum's own.

Whether Mr. Sheridan meant this as a beautiful period, or whether he was ignorant himſelf, I cannot ſay; I ſhould rather ſuppoſe the latter; but certain it is, that the ſon, Aſoph ul Dowla, was no more interdicted by law from entering the Zenana than his father; and, conſequently, the treaſures were no more protected againſt the former than the latter. By the laws of the Zenana, the ſon was a *Mehrem*, as I ſtated before. It may aſſume the appearance of pedantry, but it is neceſſary to obſerve, that *Haram* in Arabic, means nearly the ſame as *Zenana* in Perſian; and *Mehrem*, being a participle of the ſame root, ſignifies a perſon prohibited in marriage, and conſequently admiſſible into the Zenana.

In the book I before quoted, or in ſome other one in my poſſeſſion, there is a chapter deſcribing the degrees of conſanguinity, which fall within the circle of *Mehrem*. It is for this reaſon that the Mahommedan law makes a wide diſtinction between a man's taking by force or ſtealth a ſum of money from his parents, and from thoſe that are not related to him. In the latter caſe, it would be felony, if I may apply that term to Mahommedan law; but not in the former. The principle of this diſtinction muſt be, that no property can be illegally taken by him who has by conſanguinity a right to enter the *Zenana*. Neither did the natives in India, at the time of ſeizing the Begum's treaſure, conſider it in the ſame light it has been conſidered

ſidered here, that is, as far as I underſtood from thoſe with whom I converſed on the ſubject.

Mr. Sheridan ſays, the arguments of Mr. Haſtings's Counſel were futile and frivolous---I do not know how they argued the point, not being in Court that day; neither am I much acquainted with either of thoſe gentlemen; but I can from my own knowledge take upon me to ſay, that Mr. Sheridan's arguments on this head cannot ſtand one moment before any perſon who has the ſlighteſt knowledge of the Mahommedan cuſtoms. To ſay that the *mother* acquired, and that the *ſon* loſt, a right to the treaſure from its being depoſited in the *Zenana*, is the ſtrangeſt idea that ever was ſtarted. Were I diſpoſed to animadvert on that gentleman's ſpeech, there would be much room for it in that part where he tells the Lords, that they muſt not argue from the Turkiſh Mahommedans, they being of a mean and degenerate race. He was aware of there being no law or cuſtom in Turkey that would warrant his *Zenana* doctrine, and he therefore made a new ſpecies of Mahommedans for India. It is, however, very foreign to my purpoſe to point out the falſe concluſions in that gentleman's oration. There are counſel for that buſineſs, and they will find no want of matter.

I have heard, Mr. Sheridan purpoſes publiſhing that Speech he made in the Houſe of Commons, and which produced this Impeachment. Were I in the liſt of his friends, I would adviſe him to imitate the wiſdom of the *Grand Lama*, who deriving all his conſequence from ſecluſion, keeps his perſon from

public view. I have heard the *Mulnahs* read chapters of the *Coran* in ſuch tone and accent, that I have been wonderfully ſtruck with its ſeeming ſublimity; but when I read the ſame words with an eye to their ſenſe, I found it to be mere traſh. Mahommed foreſaw that it would ſuffer by tranſlation, and forbade the *Coran* being tranſlated. Mr. Sheridan may loſe by publication; and he cannot add to his fame, though he may to his fortune.

I will now return to the ſubject from which I have ſtrayed almoſt imperceptibly to myſelf.

Mr. Haſtings conſiders the treaſure lodged in the *Zenana* to have been the property of the State; but what his reaſons for that opinion are, I do not know. He may ſay, that being aſſeſſed and levied on the public for public uſes, they ought not to be employed for private purpoſes; and thereby drive the ſucceſſor to levy new taxes on his ſubjects to ſupply the exigencies of State, which would not have exiſted, had the collections been turned to their proper or intended uſe. The King of Pruſſia ſeems to have entertained a ſimilar opinion, when he told his ſucceſſor, that the wealth which he had amaſſed was the property of the Public, and not of himſelf. Mr. Haſtings will probably bring ſtronger reaſons than thoſe I have ſuggeſted, to ſupport his opinion, that the *mother* acted unjuſtly in with-holding the treaſure from her ſon.

In the latter end of 1775, the Nabob being much ſtraitened for money, requeſted the interference or mediation of the Reſident, Mr. Briſtow, who accordingly undertook it, without any inſtructions from

the

the Supreme Council. The reſult was, that he prevailed on the lady to give up 30 lacks, or 300,000l. in caſh and valuables, and to cancel an obligation for 26 lacks of rupees, which ſhe had lent her ſon on a former occaſion. This was all that could be obtained, without proceeding to violence; and in order to obtain even this, Mr. Briſtow was obliged, in the Company's name, to guarantee her in the poſſeſſion of the remainder of the depoſited treaſures, and alſo of her Jaghires. Jaghires are aſſignments of particular lands, for particular uſes, ſuch as the maintenance of families, &c. &c. They are analogous to penſions, with this difference only, that it is a landed eſtate inſtead of an annuity paid by the Treaſury.

The Supreme Council, of which Mr. Haſtings was, though Governor General, an inefficient member, approved of the guarantee, and thus it reſted till the year 1781. This was the nature of the tenure by which the younger Begum, or mother of Aſoph ul Dowla, held her property.

I ſhall now explain the ſituation of the elder Begum, or grandmother of the Nabob Aſoph ul Dowla.—This lady had certain allowances ſettled on her by her ſon Sujah Dowla, for the ſupport of herſelf and dependants, and the family of her deceaſed huſband Sefder Jung. She had ſome Jaghire lands which ſhe held by royal grant, I mean from the Emperor. According to her ſtatement, her grandſon Aſoph ul Dowla had deprived her of theſe allowances,

lowances, and done many other acts extremely offenſive to her. She therefore adopted the reſolution of withdrawing herſelf from his dominions, and gave out that her intention was to viſit Korbella, which Mr. Middleton ſays is another name for Mecca; but I think it is the burying place of Huſun, Mahommed's grandſon, who was killed and buried in the Deſerts of Chaldea. This, however, is very immaterial. The Nabob diſapproved of her departure, and requeſted Mr. Middleton's influence, who was then reſident at his Court, to prevent it.

Mr. Middleton engaged in the buſineſs, and after much negociation it was ſettled.—The principal terms were, that ſhe ſhould go to Korbella when ſhe liked; that her penſionary lands ſhould be reſtored, and during her abſence, be under the care of the younger Begum; that ſhe ſhould have the management of the Zenana (that is, of the women and children left by her deceaſed ſon,) and an allowance of about 14,000 rupees a month for their ſubſiſtence. There were other articles, but I have ſtated the moſt important.

The Managers contend, that Mr. Middleton guaranteed this agreement, and thereby pledged the Company's faith for the obſervance of it.

Mr. Middleton ſeems to conſider himſelf as a witneſs only, and engaged no farther than to uſe his influence with the Nabob, in caſe he ſhould be inclined to break it. It does not appear that he ever acquainted the board with what he had done; but his ſucceſſor, Mr. Purling, did communicate ſome account

count of this guarantee, (as the Begum ſeems to have conſidered it) to the Supreme Council in the year 1780, or thereabout. Probably the Begum might not underſtand the difference between ſigning as a witneſs, and as a guarantee. Mr. Haſtings denies having any knowledge of this tranſaction; and it ſeems evident from ſeveral documents, that he never approved of the reſident's interference with the domeſtic arrangements of the Nabob's family, and the ſettlements of his parents.

Here I muſt beg leave to make a few obſervations upon the conduct of the Nabob and his mother.—The latter had not honeſty enough to give up any part of the treaſure ſhe had in her poſſeſſion when her huſband died, of her own free will and accord:—for as I have ſhewn already, it was either the property of her ſon in his ſovereign capacity, as guardian and truſtee for the ſtate, or it belonged to him as the legal heir of Sujah Dowla, and to the other children, &c. according to the proportion ſettled by the Coran.—To have made it her own, ſhe would have ſet up a will, of which I have heard no mention. The Nabob's character was ſo well known to his mother and grandmother, that neither of them would truſt his word, unleſs the Company pledged their faith for his obſervance of it.—Accordingly, we find that when the Nabob gave a receipt in full for his patrimony, though in fact he got no more than the mother choſe to give him, Mr. Briſtow became ſecurity. It is obſervable that this gentleman acted without

out the authority of the Supreme Council, in reſpect to the agreement with the younger Begum, as Mr. Middleton did with reſpect to the elder. It is natural to ſuppoſe that theſe gentlemen conſidered an arrangement between ſuch very near relations, rather of a private than public nature.—The interference can be juſtified but upon one ground, namely, that the Begums might be provoked to leave the ſon's dominions, and carry off the immenſe treaſures they were ſuppoſed to poſſeſs. Another obſervation occurs, that though the Nabob is repreſented by the Managers as a moſt dutiful ſon and grandſon, yet we find that in 1778, three years after the death of his father, he had ſo ſtripped his grandmother of all the jaghires and penſions allowed her by Sujah Dowla, for the maintenance of herſelf and dependants, that ſhe was driven to the determination of leaving his dominions, as the only means of preſerving the reſidue of her fortune; and to effect this, ſhe gave out that ſhe wiſhed to make a pilgrimage to Korbella.

Here is another inſtance of the wonderful effect of oratory, and of the ſkill which men of abilities poſſeſs in bringing one part of the picture into the moſt ſtriking point of view, whilſt another of no leſs importance is thrown back into the ſhade, and ſcarcely noticed. I have heard many people, who happened to attend Weſtminſter Hall on particular days, or who read now and then in a newſpaper, ſome part of Mr. Sheridan's ſummary on this charge, obſerve, that Mr. Haſtings muſt have been loſt to all the feelings of humanity, when he inſiſted on the Nabob's

taking away the treaſures of his parents: whereas the fact is, that the old Begum owed all ſhe had to the interference of Mr. Middleton; and the younger Begum is indebted to the mediation and guarantee of Mr. Briſtow for the detention of that property which ſhe at leaſt ought to have divided, or, in the opinion of moſt people, to have given up all together.—At the ſame time that I think it was indecent in the Engliſh Government to interfere in their public capacity between the Nabob and his parents, yet having once ſanctioned the agreement, and committed their faith to the Begum, they moſt undoubtedly ought to adhere to it. I think alſo with the Managers, that the circumſtance of Mr. Middleton's ſigning the treaty, though perhaps without the knowledge of his maſters, bound them as effectually as if it had been done by their expreſs order and inſtruction, that is, if he ſigned it as a guarantee, not as a witneſs. But it is not reaſonable to think, that in the former caſe, he would have kept it from the knowledge of his ſuperiors: if he did, he ought to anſwer for it himſelf.

Mr. Middleton, on his examination, did Mr. Haſtings, in the opinion of many people who could reaſon only from the compariſon of a few circumſtances, more injury by his want of recollection, and cautious mode of anſwering, than he would have done, had he given the moſt correct and explicit elucidation.—I do not mean to ſay that Mr. Middleton was incorrect, but not knowing what facts might be thought criminal by the Houſe of

Commons, he ſeemed afraid to anſwer many queſtions, leſt they might on a future occaſion be turned againſt himſelf. It ſeems Mr. Middleton was adviſed by Counſel, (not Mr. Haſtings's, for they refuſed to give him any on the ſubject) not to anſwer particular queſtions. That cautious mode may be very right, and it certainly muſt be ſo, or it would not be recommended by all lawyers in general; but to thoſe who are not profeſſional men, and do not make the ſame allowances, it ſeems as if the witneſs was conſcious of guilt, and therefore wiſhed to hide it. The hearers, ſuch as I have deſcribed, immediately give him credit for ſome thing infinitely worſe than his examiners themſelves impute to him.

This witneſs ſtood in an awkward predicament:—he had formerly been accuſed by Mr. Haſtings, before the Supreme Council, of miſconduct in this very buſineſs; and when he found himſelf preſt by entangling queſtions, in Weſtminſter Hall, he ſeemed fearful that every anſwer might be turned againſt himſelf. The Managers repreſented this appearance of fear as the effect of his caution, and deſire to ſcreen Mr. Haſtings; whereas in fact, his own ſafety was his real object, as he at laſt acknowledged, when he threw himſelf on the indulgence of the Court.

Such was Mr. Middleton's caſe. Before I drop the ſubject of the right each Begum had to her treaſure and jaghire, I muſt anſwer a queſtion that will naturally riſe in the mind of every attentive reader, namely,

namely, why did not the Nabob take poſſeſſion of the treaſures depoſited by his father in the Zenana, immediately upon his acceſſion to the Muſnud or Throne? The anſwer is, that it was not in his power without waging war with his mother, who had all the city of Fyzobad and its vicinity in her intereſt, and therefore the iſſue might have been unfavourable. The Nabob took a different method, and tried to borrow the money, in which he ſucceeded to a certain amount; and when his mother would lend no more, he applied to Mr. Briſtow, as I have already ſtated. I ſhould have obſerved, that in the year 1778, the Nabob ſeemed inclined to break through the agreement made with his mother, under the ſanction of Mr. Briſtow, but was prevented by the Board.

I have ſhewn how the Begums became poſſeſſed of their treaſure and jaghires, and in what manner the Company guaranteed the poſſeſſion thereof to the younger Begum; for I cannot find that there is any proof of the Company's faith being pledged to the elder. I have read the evidence over attentively, and I cannot find that Mr. Middleton was authoriſed by the Board; on the contrary, there is a Letter from them to him forbidding his active interference, but approving of his conciliatory mode of ſettling the diſputes between the grandmother and grandſon by advice. It does not appear by any of the public correſpondence, that any greater latitude was ever given to the Reſident.

The Managers argue this point, on a preſumption that there muſt have been private authority from Mr. Haſtings alone. I muſt leave this point as it ſtands, there being ſuſpicion on one ſide, and denial on the other.

In my former Letter I ſtated, that in the year 1781, Mr. Haſtings went to Benares, and that an inſurrection broke out in that province by the means of Cheyt Sing and his adherents. During theſe troubles, the Nabob marched with his troops to the aid of Mr. Haſtings, and met him at Chunar, in the vicinity of Benares.

A new agreement was made between the Nabob and the Company, conſiſting of ſeveral articles; but that which more immediately concerns this part of the Charge was, that the Nabob ſhould be at liberty to reſume all the jaghires and penſionary lands in his dominions. In the execution of this plan, Mr. Haſtings urged the Nabob to make the reſumption general. But with reſpect to the jaghires of the younger Begum, he inſiſted that an annuity ſhould be paid her, equal to the ſum it was ſuppoſed to bring in. In this reſumption Mr. Haſtings ſeems in ſome meaſure to have been influenced, or at leaſt accelerated by the reports he had heard concerning the aid which Cheyt Sing derived from ſome of theſe Jaghiredars, particularly the Begums. But if he had heard no ſuch report, reaſon and ſound policy would have juſtified the meaſure. To what can we impute the rebellion at Benares, but to that weak policy adopted by the Supreme Council, when they

they ſuffered Cheyt Sing to keep up a large body of troops, in a manner independent of the Engliſh Government. I do not mean that he was independent of the Engliſh Government, for he certainly was not; but the army in his pay looking no higher up than to their immediate Chief, put it into his power to aſſert independence whenever an opportunity offered.

One would have thought, that the double game which Bulwant Sing played between the Nabob Sujah Dowla and the Engliſh on a former occaſion, might have convinced the Company's Servants of the abſurdity of having too powerful a ſubject. Such was the caſe with the Begums, for their jaghires were ſo large and populous, that we find the younger Begum told Mr. Briſtow, that if the Engliſh would ſtand neuter, her ſon might do his worſt. Mr. Haſtings ſaw the neceſſity of breaking this power, but he ought to have ſeen it ſooner. Perhaps in excuſe for this he might ſay, "I ſaw it before, but had it "not in my power."—It may be ſo.

The hiſtory of Europe ſhews the neceſſity of having the ſtrength of a kingdom concentered in one government, of whatever form that government may be. England was full of inteſtine commotions till Henry the Seventh reduced the power of the Barons; and France made but a ſmall figure, before the whole force of the kingdom was under the immediate controul of one adminiſtration.

The reſumption of the jaghires was certainly a wiſe meaſure, and cannot ſtand in need of any defence. Neither is it unuſual for Sovereigns in India to revoke theſe grants; and I obſerve that Mr. Purling

Purling gave evidence to that effect: for ſurely the power that gave, may reſume. The Begums had in natural juſtice a claim to an annuity of equal value, both on account of dower and of the guarantee, provided they had committed no act deſerving confiſcation. Our legiſlature takes away part of any man's land, when wanted for public uſe, and compels the owner to take an eſtimated compenſation in money, without conſulting his inclination. If then it be juſtifiable to take away property for public convenience, ſuch as new roads, canals, &c. how much more reaſonable muſt it be to do the ſame, even in a much higher degree, when the not doing it endangers the peace and ſafety of the community. Beſides, in the caſe of the Begums, there was ſomething worſe than ordinary: the adminiſtration of the jaghires was in the hands of two Eunuchs, who were notoriouſly diſaffected to the Nabob. It is owing to this circumſtance, that no direct proof of revolt can be brought home to the Begums. Proof there undoubtedly is, but it is circumſtantial. Their guilt can only be inferred from the conduct of their Miniſters, for Ladies of their rank do not tranſact buſineſs in public. But of this I may have occaſion to ſpeak hereafter.

There appears to me to have been great impropriety in interfering between the Nabob and his parents in every inſtance, unleſs the Supreme Council conſidered them as poſſeſſed of ſeparate ſovereignties. What would the politicians of Europe think of it, if they ſaw our Miniſtry guaranteeing to the mother

mother and grandmother of the French King their reſpective jointures and marriage ſettlements? However, as far as the guarantee extended, it is incumbent upon Mr. Haſtings to ſhew that he adhered to the ſpirit of it, or to aſſign ſome reaſon for the contrary; otherwiſe, I agree with Mr. Burke, that the honour of the nation is tarniſhed. I think I have already ſhewn beyond the power of objection or cavil, that the reſumption of the jaghires was founded upon principles of prudence and ſound policy, confirmed by recent and fatal experience. And if it lay in my power, I would rather inſtitute an inquiry into the reaſon of its not being done ſooner, than of its being done when it was. But as I ſaid before, the Begums were intitled to an equivalent; an annuity of equal value was propoſed, but not readily accepted: they did not reliſh the idea of parting with their influence in the country. Doubtleſs they were encouraged to reſiſt by their favourite Eunuchs, whoſe intereſt would be ruined by it. It is probable that they reaſoned in the ſame manner as a wealthy Gentleman does in this country, who ſets more value on 10,000l. a year riſing from an extenſive tract of land in ſome county, than he does on 11,000l. iſſuing from the Bank, as the intereſt of his ſtock. The former gives him great influence, the latter very little, if any. In the reſumption of the jaghires in general, the Nabob was left to his own diſcretion as to equivalents; and probably would have been ſo with reſpect to his mother, had not the Company's faith been pledged. He was therefore

fore bound to make them compenſation, and the Company became anſwerable for the payment of the annuities, in the ſame manner as they did for their poſſeſſion of their jaghires. In ſhort, it was an uſeful commutation.

Mr. Haſtings in his defence ſays, that gratitude to the Nabob for his ready aſſiſtance at the time he himſelf was in diſtreſs at Chunar, was an acceſſary motive to the conſent he ſo readily gave to the reſumption of the jaghires. That might ſerve as a good reaſon for expediting the buſineſs, but one would have thought, that Mr. Haſtings had ſeen enough at Benares to convince him of the general tendency which all the ſubordinate Chiefs have to revolt upon all occaſions; and that none of them are actually ſubordinate longer than they are unable to reſiſt. It may be ſaid, that the Conſtitution of the Mogul Government is, *imperium in imperio*, or rather *multa imperia in imperio*. It is ſo; but it is wretched policy for the Engliſh to adopt, who maintain their poſſeſſions in the Eaſt, as much by opinion as by force; and this opinion of Engliſh invincibility grows weaker every day. To this diviſion of power we may attribute all the inteſtine commotions in Indoſtan, and the preſent debility, I may almoſt ſay, annihilation of the Emperor's authority. There will always be an oppoſition, ſtronger or weaker, to every government; and the difference which England feels between its preſent ſtate and that previous to Henry the Seventh, is, that then oppoſition had recourſe to their ſwords,

ſwords, and now to their tongues. The men are alike, the ſpirit is alike, but the means are altered.

From what I have ſaid, it muſt be allowed that the reſumption of the Jaghires was prudent, wiſe, and juſt, whether a guarantee exiſted or not. But it ſtrikes me as a very abſurd concluſion to maintain, that becauſe a Sovereign has entered into a guarantee, he is not at liberty to withdraw it, when the circumſtances which induced him to make it are no longer the ſame. All ſecurities of this kind are made under an implied, if not expreſſed proviſo, that it ſhall endure no longer than the party favoured ſhall deſerve it. The only rule whereby we can judge of the conduct of the Supreme Council, is that of political prudence. Was it right in the Engliſh Government to interfere between the Nabob and his parents? Certainly not, if the Nabob is conſidered as a Sovereign; if as a Subject, perhaps otherwiſe. Was it right to adviſe, or permit him to reſume the Jaghires, when experience had ſhewn their ill conſequences? Undoubtedly it was, and the blameable part is the firſt granting of them, particularly to women, who muſt entruſt the management to other hands.

Having now ſhewn why the Jaghires were and ought to be reſumed, I ſhall proceed with the narrative part. After the execution of the treaty with the Nabob, on the 19th September, 1781, for the reſumption of the Jaghires, &c. it appears that Mr. Haſtings receiving ſtill farther information of the Begums having aided Cheyt Sing in the rebellion at

Benares, conceived the idea of confiſcating that treaſure which was in the poſſeſſion of the younger Begum, the Nabob's mother, and which, as I ſaid before, was guaranteed by Mr. Briſtow. The Managers lay much ſtreſs upon Mr. Middleton's renewing the ſame guarantee to the younger Begum in 1778. It does not however appear, that he had any particular authority for it; neither can I perceive any uſe it was of; for Mr. Briſtow's act bound the Company as firm as the renovation of the ſame by Mr. Middleton could poſſibly do. The guarantee to the younger Begum is admitted: it is that to the elder only which appears to be in diſpute. But even this is in reality of little conſequence, for the two Ladies were ſo blended together in every act, that whatever involved the one, involved the other alſo.

The two Begums are confounded together even by Gentlemen well acquainted with India in general. The natives of India obſerve a fooliſh reverence in ſpeaking or writing of perſons of high rank: they do not like to mention their names, particularly of women, and hence in ſome of their letters in the Books of Evidence, there is an apparent obſcurity as to the Lady meant. The fact is, the principal ſhare of power was in the hands of the younger Begum, but the elder was the adviſer and directreſs in moſt things. The reſponſibility lay with the former, as far as it could lay with a Lady in a Zenana.

In November 1781, as Sir Elijah Impey was about to pay the Nabob a viſit at Lucknow, Mr. Haſtings

Haſtings ſent by him a verbal meſſage to Mr. Middleton, the purport of which was, that if the Nabob were inclined to confiſcate or take poſſeſſion of that treaſure, which had formerly been in diſpute between him and his Mother, the guarantee would not be pleaded againſt him. I do not know that theſe are the preciſe words; but the ſpirit I take to amount to this, that the Nabob might, if he thought proper, take poſſeſſion of the treaſure.

This is ſeemingly circuitous, but there was no method of interfering with the Nabob's government but in the way of advice and recommendation. It was well known that the Nabob longed for an opportunity to poſſeſs himſelf of that treaſure which he always had conſidered as unjuſtly with-held from him.

The Managers take wonderful advantage of this circumſtance; I mean the ſuggeſtion made by Mr. Haſtings in the way I have mentioned. The adviſing a ſon to rob his mother is by them placed in a thouſand different lights. It certainly had a great effect upon the Houſe of Commons, when Mr. Sheridan opened this article; his Speech alſo had ſome effect upon the audience in Weſtminſter Hall. I have ſometimes thought that it would ſave a deal of trouble, if every advocate and orator, on the accuſing ſide of the queſtion, were obliged to take an oath that he would not directly or indirectly endeavour to make others believe what he did not believe himſelf, or to take a ſimilar oath at the end of his Speech, that he had not miſ-ſtated any fact

wilfully, nor repreſented any thing better or worſe than he really believed it to be. I would lay this tax only on the accuſer. Humanity makes great allowance for the accuſed. It is natural for a man to deny guilt; ſelf-preſervation juſtifies it: but there appears to be ſomething unpardonable in imputing more criminality than is deſerved, and in torturing acts into guilt by miſrepreſentation.

When Mr. Sheridan was talking of the tender Son, how much it would have taken off from the brilliancy of his colouring, had he ſaid to the audience in the next ſentence; *but remember, there was no time when the Nabob would not have done this very act, if not reſtrained by the Company:* and if he had added, *this very Son was ſo cruel as to deprive his Grandmother of the allowances ſettled by his Father, and drove her to the reſolution of flying from his dominions, unleſs the Company would protect her.* How much would it have deſtroyed the pathetic part of his oration, had he ſtated, that theſe very treaſures were unjuſtly detained by an avaricious Mother from a needy and diſtreſſed Son. Yet Mr. Sheridan knew moſt of theſe circumſtances perfectly well, when he made his oration of four days length in Weſtminſter Hall. He might ſay, and it is the only thing he could ſay, I do not believe one ſyllable that makes in favour of Mr. Haſtings, but I implicitly believe all that appears or can be made appear againſt him. I cannot help ſaying, though perfectly unintereſted in the fate of Mr. Haſtings, or in the event of the trial, that the knowledge which I poſſeſs of the ſub-

ject, gave me that diſguſting kind of view which a perſon unaccuſtomed to plays is liable to, and always feels, upon removing from the front boxes to behind the ſcenes. Mr. Sheridan underſtands the human mind: he knows how inflammable it is, and he knows how to warm and to cool it; he can mould it to his own liking. He knows that few people poſſeſs a mind like his own, that is capable of ſurveying a large edifice at one comprehenſive glance: he knows alſo, how to fix the obſerver's eye upon that part which may ſerve his own purpoſe, by exciting either pleaſure or diſguſt.

I have been led into theſe digreſſive reflections by referring to that Gentleman's Speech to refreſh my memory, in regard to a particular circumſtance I ſhall ſoon have occaſion to ſtate.—I have juſt laid it down, impreſſed with two very contrary ſentiments: I feel a high degree of pity for the weakneſs of thoſe minds, which can be ſeduced by ſounding periods, and a ſtill higher degree of admiration at the elocution of the ingenious ſpeaker.

To form a tolerable judgement of the merit or demerit of Mr. Haſtings's conduct, you muſt enter into all his views and intentions, when he left Calcutta to viſit the Upper Provinces, and to ſettle the diſpute with Cheyt Sing. Theſe I ſhall ſtate, as far as I can collect them from the ſeveral accounts he has given himſelf, from the knowledge I had through other channels, and from the obſervations made by the Managers during the trial. Mr. Haſtings's firſt object was certainly the procurement of money,

money, without which it was impoſſible for the wheels of Government to move.

I cannot avoid remarking in this place, that whatever errors Mr. Haſtings may have committed, he was driven into them by a ſoleciſm in politics. I ſay a ſoleciſm in politics, yet I do not know where to fix the blame.---What I allude to, is the appointment of a Council to govern a kingdom; to wage war, and perform every other act of ſovereignty, without pointing out ſome mode of raiſing extraordinary ſupplies for extraordinary occaſions. Every body knows, that in all States, there are times when the product of the year will not defray the expences of the year. What then is to be done? The Council have only the choice of illegalities—take what ſteps they will, they muſt be condemned at all events, of acting illegally (I mean with reſpect to the laws of Great Britain) if they are tried by Engliſhmen; for many people of this country have no idea of any thing being legal and juſt, which has not the ſanction of Parliament, without ever conſidering, that in India there is no Parliament to conſult.---Another conſideration with Mr. Haſtings ſeems to have been the correction of ſome evils in the Nabob's Government, whoſe wealth and reſources were found to be on the decline, and unable to ſupport the army, there being at that time near a third of our military eſtabliſhment in the Nabob's dominions, and in his pay. Probably he might then have had in contemplation the reſumption of ſome, or all the Jaghires; for the Nabob had granted away ſo many as to diminiſh his revenue with-

without diminiſhing his expences. He doubtleſs had other views, but theſe were the moſt conſpicuous. It happened with him, as it does with moſt others, that in the proſecution of one deſign, another deſign grows out of it; that is, unexpected events happen, which generate other events. The rebellion of Cheyt Sing was certainly an incident that deranged Mr. Haſtings's plan; but it is to that rebellion we muſt attribute the conduct of the Begum; for though ſhe might have entertained ill will to the Engliſh, ſhe would have concealed it till a fit opportunity occurred of manifeſting it. The inſurrection at Benares was like a ſhower of rain, which brings forth the weeds; but the ſeeds were in the earth before. No doubt, when Mr. Haſtings was well aſſured of the Begum's diſaffection to the Engliſh Government, and of her having lent aid to Cheyt Sing, he conceived the idea, not of puniſhing her, for her ſex would not allow of it, but of depriving her of the means of future miſchief. But as to the Jaghires, he moſt likely would have adviſed or permitted the reſumption of them, let the Begums have acted how they would; but they would have had a pecuniary equivalent.

There is one thing which has often occurred to my mind, when reflecting on the cruelty of taking away the Jaghires and treaſures, as deſcribed by Mr. Sheridan; but it has not been drawn into argument by either party: it is, that the only people really and *bona fide* injured by taking away the Jaghires, were the *two Eunuchs*, the Begum's Prime Miniſters. Theirs was the real power, and they had all the influence.

fluence. The Begum could, from her ſituation and confinement, do nothing but by the advice of theſe men. A woman ſecluded from view in a *Zenana*, could be but a mere tool or machine in the hands of her miniſters. They wrote and dictated all her letters. It is impoſſible to have been otherwiſe. The very idea of ſuffering two Eunuchs, under the name of the Begum, to manage a large province, is abſurd in the extreme, and could have been ſuffered only by want of conſideration, or the means to alter it. You ſee then, Mr. Haſtings could not have had an idea of executing vindictive juſtice towards the Begum, whatever he might have had towards her Eunuchs. The former was beyond his reach, whatever his inclinations might have been: the latter were amenable to juſtice in their perſons, and certainly ought to anſwer for their mal-adminiſtration, as much as a miniſter in this kingdom would do in like circumſtances: I may ſay, a great deal more, for many reprehenſible meaſures in this country, which have been imputed to the Miniſter of the day, did not originate with him. He was conſequently blameable for the execution only; but the Begum's Eunuchs were the authors and executors of every act, good or bad. So early as the year 1775, Mr. Briſtow ſpeaking of theſe men ſays, that they preſerved "*a total* "*independence of the Nabob and his Miniſters, refuſed* "*obedience to his perwannahs*, and *beat the officers of* "*his government.*" I would here have it be underſtood in general, that when I ſpeak of the diſaffection and ſeditious diſpoſition of the Begums, I follow the language

guage of the accuſers and the accuſed; for, in my opinion, the Eunuchs were principally, if not wholly culpable.

I ſaid in a former part of this Letter, that after Mr. Haſtings received what he thought deciſive teſtimony againſt the Begums, he conceived the idea of confiſcating the treaſure of which I have ſaid ſo much. It is not perfectly aſcertained, at leaſt I cannot make it out from comparing the evidence, whether it aroſe from Hyder Beg, the Nabob's acting Miniſter, from Mr. Haſtings himſelf, or from Sir Elijah Impey. The latter ſpeaks of it as an idea of his own ſuggeſting; but the moſt probable thing is, and it is ſtated by Mr. Sheridan in his ſpeech, that it was firſt propoſed to Mr. Haſtings by Hyder Beg, through the means of Ally Ibraheem; but, in my opinion, it is very ill worth inquiring into. Certain it is, that Sir Elijah Impey gave his opinion in favour of the legality of it, founded on the ſuppoſition that the Begums had been guilty of hoſtility, either by cauſing inſurrections, or ſecretly aiding Cheyt Sing.

I have already taken notice of Sir Elijah's going to Lucknow, and alſo of the commiſſion he was to execute; but it happened that in a converſation with Mr. Haſtings, concerning the revolution which had juſt then taken place in Benares, he expreſſed an idea, that as Mr. Haſtings had many enemies in England, it might be adviſeable for him to collect Affidavits in proof of thoſe facts which had led to the revolution abovementioned. Mr. Haſtings caught the idea, and

approved of it, in my opinion very injudiciouſly. In this opinion I do not expect many ſupporters, but my reaſons are theſe:---Affidavits are to remove doubts, but a rebellion cannot be a doubtful thing; its conſequences are felt far and near, and the report of it ſpreads, uncontradicted, through whole countries. You often hear various accounts as to the minutiæ, but no man doubts of any of the rebellions he reads of in the Engliſh Hiſtory. Beſides, greater revolutions have been effected in India, and the Directors relied upon the veracity of their Government for the ſtatement of facts. Add to this, the idea of defending before accuſation implies guilt. I muſt ſay, I do much diſapprove of Sir Elijah's advice, and blame Mr. Haſtings for accepting it. Sir Elijah is eſteemed a man of great profeſſional abilities, and of a very ſuperior underſtanding; he may have many objections to what I have ſtated, but my mind cannot of itſelf ſtrike out any good reaſon for taking thoſe affidavits.

There is one miſtake into which the Managers ſeem to have fallen, for they ſpeak of the affidavits as having been collected to eſtabliſh the guilt of the Begums, whereas that was not the object of them. The ſcheme of confiſcating the treaſure was adopted previouſly to the taking of the affidavits. They were intended to juſtify what had happened at Benares, and all that relates to the Begums came in collaterally; for the deponents gave in of themſelves all that they knew of the troubles in general.

Had

Had theſe affidavits been collected for the purpoſe of criminating the Begums, they would have been much more full and explicit, that is to ſay, Mr. Middleton would have informed thoſe who made the affidavits, that they muſt be particular in ſtating all they knew concerning theſe Ladies and their dependents. Mr. Sheridan took great advantage of this want of point, and infers from it, that Mr. Haſtings could get no better proof to rely upon; whereas the fact is, Mr. Haſtings never tried to collect a body of evidence againſt the Begums; as it came in collaterally, and almoſt accidentally, he availed himſelf of their contents, when he found himſelf attacked upon this article. This diſtinction ſeems to be underſtood by very few of thoſe with whom I have converſed on the ſubject. I know three officers now in London, who converſed with ſome priſoners taken during the rebellion of Cheyt Sing, at Pateeta or Lutteefpore, who declared they were of that party of Nujeebs who were ſent by the Begums from Fyzabad, and I believe from Colonel Popham to the youngeſt officer in his camp, the fact was never doubted nor diſputed. This is a circumſtance I ſhould not mention now, if the gentlemen to whom I allude had not been ſummoned to give evidence in Weſtminſter Hall; and I muſt ſay, that Mr. Sheridan never diſplayed his abilities to greater advantage, than in the management of his evidence; I mean by contriving to keep back thoſe gentlemen who could have proved more than enough to ſpoil his ſpeech.

Nothing but the taking of theſe affidavits could have ſuggeſted to Mr. Pitt the idea of bringing the Begums to trial before the treaſures were confiſcated. But Mr. Pitt did not conſider the impoſſibility of doing that:—their ſex, the cuſtom of the country, and a variety of other obſtacles, aroſe in the way. Mr. Haſtings had no judicial authority over any perſon in the Nabob's dominions, much leſs over his parents. With reſpect to them, he was only guarantee, which ſecurity they forfeited, and he withdrew it of courſe. Mr. Pitt might ſay, the Nabob ſhould, in ſome way or other, have given them a fair hearing; but ſuch an idea could originate only from want of knowing the Conſtitution of the Mogul Government. There is no court of juſtice to decide between the ſovereign and the ſubject; the former admits of no authority or judgement ſuperior to his own. The Monarch does not erect a tribunal, and become plaintiff in his own courts, as the King of Great Britain does. He hears, determines, and puniſhes from his own diſcretion alone: he makes his own judgement the rule of evidence. It is not ſo in the inferior Courts, for there, in caſes between ſubject and ſubject, the rules of evidence are cloſely adhered to; but I never yet heard of a State trial or impeachment in India.

Sir Elijah, at the time he went to Lucknow to take the affidavits, executed his own commiſſion alſo with reſpect to confiſcating the treaſures. The Nabob accordingly applied for permiſſion, which was granted of courſe. But though, as I obſerved before, the

idea of confiſcating the treaſure originated with his own Miniſter, the Nabob now wanted to make the confiſcation an alternative for the general reſumption of the Jaghires, that is to ſay, he wiſhed to be excuſed from taking the Jaghires from the *Orderlies*, but expreſſed no reluctance with regard to thoſe held by the Begums. There appears to be an inſtability in the Nabob's conduct throughout all this buſineſs, not eaſily reconcileable, at firſt ſight, with common ſenſe. But the cauſe of it is accounted for, by recollecting that Mr. Haſtings preſſed him very hard to make the reſumption general; and as that meaſure would involve many of his particular favourites in ruin, the Nabob would rather have foregone the whole plan than injure them. Theſe men, who had ſo ſtrong an influence over the mind of their maſter, were a ſet of *Orderlies*, who owed their promotion to diſgraceful ſervices. Though the Nabob left Chunar the latter end of September, intending, as it was believed, to begin the reſumption of the Jaghires immediately, nothing was done during the next month, and part of November.

Mr. Middleton, whoſe influence with the Nabob was much relied on by Mr. Haſtings, was either very dilatory, or very unſucceſsful. And to haſten this gentleman in his endeavours, was another object of Sir Elijah's journey to Lucknow. It were needleſs to enter into a narrative of Mr. Middleton's excuſes, which appear rather contradictory, at leaſt to my underſtanding. The alternative of confiſcating the treaſure, inſtead of reſuming the Jaghires, was not accepted

cepted by Mr. Haſtings; on the contrary, he preſſed the Nabob to adopt both meaſures, to which he was at times conſenting, and at times adverſe: however, the reſult was, that both were carried into effect, though not without much difficulty.---The two Eunuchs, who were the Begums' Prime Miniſters, were confined for ſome time, before they could be prevailed upon to give up, or diſcover the concealed treaſure.

There certainly is one objection which muſt naturally occur to the mind of every attentive reader, namely, why was not the Nabob ſuffered to follow his own inclinations upon theſe two propoſitions? The only anſwer that ſuggeſts itſelf to my mind is, that the Nabob Aſoph ul Dowla, is an extremely weak man, totally unqualified for any public ſtation in life; that Hyder Beg Cawn, his acting Miniſter, has for many years, in fact, managed all the buſineſs of the *Subahdary*; that he does ſo at this hour, under the auſpices of Lord Cornwallis, for his Lordſhip repreſents the Nabob's character nearly as I have done; and though he does not interfere directly with the Nabob's Government, he relies upon the Miniſter, and conſequently ſupports him. Hyder Beg Cawn knows that his office depends upon the countenance and intereſt of his Lordſhip, and therefore ſtudies his will and pleaſure. The Nabob is ſenſible of his inability to diſplace the Miniſter, without breaking with the Engliſh Government, and is therefore obliged to follow his advice and opinion. The ſame influence prevails in the Nabob's Councils now as it did under the

the former Adminiſtration in India, though perhaps more circuitouſly.

Hyder Beg was ſtrenuous both for the reſumption of the Jaghires, and the confiſcation of the treaſures: he was not biaſſed by the ſame partialities to undeſerving objects as the Nabob was. He knew the danger of entruſting the eunuchs with power, and the ill uſe they had made, and might again make, of the treaſure in the poſſeſſion of their miſtreſs. He knew alſo the weakneſs of the title under which ſhe held it. He, as the acting, and only intelligent miniſter, was well acquainted with the diſordered ſtate of his maſter's finances: the vaſt debt, near a million and a half, which he owed to the India Company; and the utter impoſſibility of paying any part of it, or even preventing the troops from mutinying, without a ſpeedy ſupply of money—he, I ſay, knowing all theſe circumſtances, was ſtrenuous and urgent both for the reſumption of the Jaghires, and the confiſcation of the treaſures. The Nabob was, like many other weak Princes, compelled in a manner by his miniſter to conſult and act for the good of the ſtate.

I have all along called it a confiſcation, in which I have followed authority; but as many as are of opinion that Mr. Briſtow's guarantee was injuriouſly forced upon the Nabob, will quarrel with the term, and ſay, that it was nothing more than the Nabob's taking his juſt, and long-withheld right. But I am ſpeaking of facts which will be equally true, though I may err in the choice of terms.

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The ſums of money obtained from the Begum, together with the jewels and other valuables, amounted to about ſixty lacks of rupees, or 600,000l. ſterling. The whole was not obtained at once, but received at different times, as the Begum and her miniſters could be prevailed on to part with it. Mr. Sheridan, in his ſummary of the evidence on this charge, dwelt much on the cruelties practiſed on the eunuchs; but I am told, he was not ſo very pathetic before the Lords as he had been before the Commons, when he firſt opened this charge.

Here it is neceſſary to obſerve a little on the difference of cuſtoms in England and Indoſtan:—In the former, a man glories in being able to pay, and in having paid his debts; in the latter he boaſts among his friends of having evaded them. But in all countries where debtors refuſe, or neglect payment, ſome ſort of perſonal ſeverity is made uſe of. Without it the recovery of debts would be very precarious all over the world. It took up much time during the trial of this article, to inveſtigate the mode in which the eunuchs had been treated, and alſo to inquire into the ſufferings of the Ladies of the Khord Mahal. Khord Mahal ſignifies a little palace, and in this inſtance it means a ſeparate building, where the ladies of the ſeraglio reſided. I apprehend its inhabitants muſt have been principally inferior concubines, and natural children of the late Nabob Sujah Dowla. As far as I could collect from the evidence of Major Gilpin and others, the inconveniencies which theſe ladies ſuffered aroſe principally

pally from failure of returns from certain aſſignments ſettled for their ſupport, and would have happened equally, if the Begums had been in poſſeſſion of their treaſures and jaghires.

Much evidence was brought as to the manner in which the Begums' palace was ſurrounded by the ſepoys, and the inconvenience which they conſequently ſuffered. But I underſtood this was conducted by the Nabob and his miniſters, who certainly beſt knew how to compel reſtitution of property, without infringing the laws of decency and punctilio. As they cannot enter the Zenana in the ſame manner a ſheriff's officer does the houſe of a reſiſting debtor, with a writ of execution, they are neceſſarily driven to ſurround the place, and prevent ingreſs and egreſs. There muſt be ſome way of enforcing the law upon women as well as men, let their rank be what it may; and it ſeems the mode adopted was the beſt, if not the only one.

I believe alſo, that the ſepoys which ſurrounded the Zenana were the Nabob's own, or if they were the Company's, the orders for their conduct came from the Nabob originally. I do not ſee that this inquiry, let it turn out as it may, can affect Mr. Haſtings, for he was not preſent. He can be anſwerable for no more than the permitting, encouraging, and perſuading the Nabob to confiſcate the treaſures. If that meaſure was right, the mode of execution cannot make it wrong. If the Begum was wrong in detaining the treaſure, all the inconvenience ſhe was put to, was imputable to her own

obſtinacy. The whole merit or demerit muſt depend entirely on the withdrawing of the guarantee, and encouraging, or even inſiſting on the confiſcation.

There is to be ſure an immenſe maſs of matter in this article, for it fills up a folio volume, excluſive of many very long ſpeeches, probably, if printed, enough to fill another volume in folio; but the principal points may be brought into a very ſmall circle indeed. The pith of what the Managers ſay, is as follows:—Firſt, they endeavour to prove that the treaſure was the property of the younger Begum, left by her huſband, for the ſupport of the ſeveral branches of his family; but of this I cannot diſcover a veſtige of evidence, either written or oral. Then they endeavour to ſupport her title to the treaſure, from the ſacredneſs of the place where it was depoſited; namely, the Zenana; but I have commented on the Zenana law already. Next they ſay, if both theſe titles fail, the Company's guarantee cures all former defects, and that the reſumption of the Jaghires was alſo a violation of the ſame guarantee. As Mr. Haſtings has already given in his defence to the Houſe of Commons, they are enabled to combat the arguments he is expected to bring in vindication of his conduct; and they conſequently maintain that the Begums never aſſiſted Cheyt Sing with men or money; that the troops found in Cheyt Sing's army, which were in India, ſuppoſed to have come from Fyzabad, the Begum's reſidence, actually came from Lucknow, the Nabob's capital. This aſſer-

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tion may be true, but it is at war with common ſenſe. It muſt have been very difficult, I might ſay almoſt impoſſible, to inliſt a body of men to ſerve againſt the Engliſh at Lucknow, where ſo many Engliſh gentleman reſided, without the circumſtance coming to their knowledge. Had the Nabob encouraged ſuch a thing, it would have amounted almoſt to a declaration of hoſtilities.

Having endeavoured to ſhew that the Begum and her miniſters had committed no act of forfeiture, they proceed to ſhew, that no ſtate neceſſity exiſted; that is, that the Engliſh government had made a treaty of peace with Sindia, one of the Mahratta Chiefs, and had been ſucceſsful on the coaſt, conſequently the Company's affairs was ſecure from danger, and the troops in no want of money. In this manner they preclude every kind of defence, by ſaying—You did not confiſcate the treaſure for any act of the Begum, or her miniſter; nor were you under the neceſſity of raiſing money out of the ordinary way, to carry on the war.

When a perſon in England, and who never was out of Europe in his life, undertakes to prove, in defiance of, and in oppoſition to the teſtimony of ſeveral gentlemen who were on the ſpot, that no inſurrection broke out, and that no act of hoſtility was committed by the inhabitants of a province in Aſia; I ſay, when a perſon undertakes that taſk, every hearer muſt at leaſt give him credit for great courage and reſolution. But ſhould the ſame perſon, in contradiction to what paſſed under my own eye, in

contradiction to thouſands of documents which prove that the war in India laſted long after the treaty with Sindia and the ſeizure of the treaſures—ſhould the ſame perſon, I ſay, riſe up againſt all theſe contradictions ſtaring him in the face, and tell us, that no ſtate neceſſity exiſted in India in the year 1781, what muſt my opinion be of the courage and abilities of that man?

The Managers lay great ſtreſs on the active part Mr. Haſtings took in urging the Nabob to confiſcate the treaſure, and to reſume the Jaghires of his parents. They accuſe Mr. Haſtings alſo of ſubordination of letters, a term I do not underſtand well enough myſelf to explain it to others. They ſay alſo, that he carried on with the Reſident at the Nabob's court, two kinds of correſpondence, one public and another private. They lay heavy ſtreſs on his ſending or permitting Sir Elijah to collect affidavits, which they conſider as done rather to juſtify a future act of violence, than to diſcover the truth of what had paſſed. But I ſhewed in a former part of this letter, that the affidavits were taken to convince the Company at home of the cauſes of Cheyt Sing's rebellion, and that all that came in concerning the aid lent him by the Begums, was collateral, and merely the overflowing of the minds of thoſe who made the affidavits; that is, being deſired to ſtate all they knew concerning the troubles in the Upper Provinces, they ſtated what they knew and heard, reſpecting the Begum and her miniſters.

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The Managers ſay alſo, that the rebellions which broke out in Oude and its vicinity, during the troubles of Benares, were occaſioned by the oppreſſions of Colonel Hannay, who was at that time a Military Collector in certain diſtricts of the Nabob's dominions. Theſe are not all the items or allegations; but they are the moſt ſtriking features in the ſecond article of impeachment. The Managers alſo charge Mr. Haſtings with receiving a hundred thouſand pounds, as a preſent from the Nabob, at the time the treaty was ſettled at Chunar. This ſum was carried to the Company's credit; but they impute the act to fear of detection. I have taken no notice before of this preſent, becauſe there is a particular article of impeachment dedicated principally to the ſubject of *preſents*, and which is now at iſſue.

I do not know how Mr. Haſtings will defend himſelf againſt theſe allegations, it being now intruſted to council, who, you know, mechanically (if I may uſe ſuch a word in this place) deny all that cannot legally be proved againſt their client. This, no doubt, is a very proper mode of defence, and ſo common among lawyers, that a profeſſional man would be condemned by his brethren, if he did not adopt it. But though I am ignorant as to the defence which will now be ſet up, or offered in a court of juſtice, I can ſtate the ſubſtance of what Mr. Haſtings has already ſaid in anſwer to the allegations. He inſiſts that the treaſures were the property of the ſtate; that Mr. Briſtow acted wrong in making the guarantee, but as he did make it with the approbation

bation of the majority of the Supreme Council, the Company was bound by the guarantee, until the miſconduct of the Begums forfeited it;—that the Begum did forfeit her claim to protection, by the aid ſhe lent to Cheyt Sing, of which he had proofs ſatisfactory to his own mind; that the reſumption of the Jaghires was politically neceſſary;—but that he intended her an annuity of equal value, guaranteed in the ſame manner as her Jaghires had been;—that a ſtate neceſſity did exiſt at the time he conſented to the Nabob's taking poſſeſſion of the treaſures, which his mother with-held from him;—that in employing Sir Elijah Impey to receive the affidavits, he thought the rank of the Chief Magiſtrate would give additional weight to them. It is not meant that it could verify them, but that it would prove that the deponents really did ſwear to their contents, which might otherwiſe have been doubted. It is probable Mr. Haſtings might be led into taking the affidavits, by the reflection that he did not enjoy the confidence of the Directors at that period, though he did that of the proprietary.

Mr. Haſtings denies the inſurrections in the Begums jaghire lands having been occaſioned by the exactions of Colonel Hannay. I did not obſerve in reading the evidence through, any probability of Colonel Hannay's having excited or cauſed the diſturbances in the Begum's jaghire lands. I do not ſee the poſſibility of it, as he had nothing to do with her diſtricts. With reſpect to the ſubornation of Letters, I do not know what Mr. Haſtings will ſay, nor do I well know what the words mean, when

when applied to letter-writing. If the Managers mean, that Mr. Haſtings procured ſuch letters to be written by the natives, as would ſerve to colour or juſtify his own conduct, it can only be ſaid, that if, he did act in that manner, it muſt have been owing to the oppoſition he conſtantly met with in council; no man ever does an act indirectly, that he can effect by direct means. No man who has not been a witneſs to the pernicious effects of a perpetual ſhifting balance of power, can form an adequate idea of the difficulties a Governor-General muſt be under, when oppoſed by the members of his Council. He was by duty bound to propoſe plans for various operations, particularly in time of war, and when his plans were approved by the Council, nothing was more common than to have them checked in the middle by ſome objection or other. Theſe difficulties drove him unavoidably to do things which he would gladly have left undone, if his plans poſſibly could have been effected by direct means. It was preciſely the caſe of a ſhip having a harbour in view, with a foul wind: to make the port ſhe muſt make many traverſes, and alter her tack very often.

To an obſerver who did not know the pilot's intention, theſe frequent changes in the courſe would appear unaccountable and abſurd; but the ſailors who knew the object, are not at all ſurpriſed at it.—Aſtronomers were long puzzled to account for the apparent irregularities in the planetary movements, but when they erected a ſcheme, and placed the eye in the centre of the ſun, they obtained an immediate

ſolution of appearances, and found the motions of the planets to be regular and uniform.

There is no way whereby you can account for Mr. Haſtings's conduct ſatisfactorily, without taking into conſideration the difficulties he had to contend with, and the objects he had in view. To preſerve the Company's poſſeſſions in a very dangerous and complicated war, was his principal object, I may ſay, as far as I can judge, his only one. But the difficulties which he had to encounter were innumerable: the Court of Directors diſapproved of almoſt every means he made uſe of to raiſe money, though they never pointed out to him any mode of ſupply. On the contrary, they ſtill expected the ſame inveſtment in time of war as they did in peace. And here, by the bye, I cannot help commenting a little on one ſtriking abſurdity which exiſts in the Bengal Government. The Company require two millions ſterling annually to be drawn from Bengal by way of inveſtment, or to be ſent to Madras and Bombay; yet after all theſe exactions, they expect the country to flouriſh, and wonder that it does not. Neither the Directors nor the Managers ſeem to conſider the difference that muſt unavoidably take place in the ſtate of two countries governed upon two diametrically oppoſite principles. This kingdom is governed with an eye to its own proſperity and advantage; but Bengal is governed with an eye not to its own proſperity, but to the proſperity and advantage of Great Britain. It is, in my opinion, extremely abſurd to expect the ſame effect from two cauſes ſo totally different. I can-

I cannot help comparing this ſyſtem of government to the management of a farmer, who, having two eſtates, carries all the manure to one eſtate only, and thus having robbed one to improve the other, he wonders that both do not bear equally good crops. If any perſon ſeriouſly conſiders the drain of treaſure from Bengal in the laſt war, and ſince the peace, he will be aſtoniſhed to find the country in ſo very flouriſhing a ſtate as it now is. It carries conviction to my mind, that the Britiſh government is by far the beſt, and the moſt lenient that Bengal has experienced, ſince the firſt invaſion of it by the Mahommedans.

That a ſtate of neceſſity did exiſt, I can ſpeak from my own knowledge; I mean, that the troops muſt in a ſhort time have mutinied, had not treaſure been procured by ſome means or other. For my own part I know of no other reſource at that period, than that which was adopted; but it is probable, that if the Begums had not been hoſtile to the Engliſh intereſt, and thereby forfeited all claim to protection, Mr. Haſtings would have tried to borrow the money upon the Company's ſecurity. I do not know that this plan was in his mind, but it ſeems to me to have been ſuch as a reaſonable man would have thought of. Neither do I think the Begum would have objected to the Company's ſecurity. To Mr. Haſtings, conſidered either in his private or public capacity, it could have made but little difference whether he raiſed the money by loan or confiſcation. The difference would not have been much

to the Company's intereſt, for the treaſure confiſcated was employed in paying the Nabob's debts, who then owed the Company a million and a half nearly. The only difference that I perceive is this, that the Nabob would have owed the Company 60 lacks more, and the Company would have owed the Begum the ſame ſum. This is an idea of my own, having never heard it ſtarted by any one. It ariſes in my thoughts, from recollecting that there were at Cawnpore three armies in the greateſt diſtreſs for money; that a mutiny muſt have enſued if the troops had not been paid at the time they were, and that as Sindia was ſo near with his army, Oude muſt have been loſt. Neither would it have been extraordinary, if the Mharattas had ſeized that very treaſure which is now the object of this diſcuſſion. In ſhort, no human being can form an idea of what the conſequences might have been.

It certainly muſt appear ſtrange to a reflecting mind, when told that all the Gentlemen in India were deceived into a belief that the Begum and her Miniſters were hoſtile to the Engliſh in 1781; that no Nujeebs were taken priſoners by Colonel Popham, or any of his Officers; that Captain Williams did not intercept a variety of treaſonable Letters from the Begum's Miniſters during the inſurrection; that Captain Gordon did not loſe his detachment through the treachery of their Fougedors; and that the Managers, by reading over certain documents, diſcovered the miſtake. But how much more ſtrange muſt it appear to me, when I find that the making

making a peace with one Mharatta Chief out of a great many, and a little ſucceſs upon the coaſt, had done away all the diſtreſſes of the ſeveral armies in the field. To me, who have been frequently employed to ſoothe and exhort the troops to patience and reſignation—to me, who felt the diſtreſs perſonally, and ſaw it in others, this diſcovery muſt appear indeſcribably ſtrange indeed. The proof brought by the Managers in ſupport of the non-exiſtence of State-Neceſſity, was the lameſt and weakeſt I ever heard or read in any cauſe whatever. I was in Court when the Manager announced to the Lords, that they were going to prove that no State-Neceſſity exiſted, and I muſt ſay, I was never more ſtruck with the boldneſs of any aſſertion in my life. I could not help remarking to a friend who ſtood near, that if they ſucceeded in that attempt, they never need deſpair of any thing they undertook.

In reading over the proceedings, I turned my attention to one point, namely, to diſcover whether Mr. Haſtings might in his conduct to Cheyt Sing and the Begums be juſtly ſuſpected of ſelfiſhneſs—Whether he was actuated by a deſire to ſerve himſelf or the Company. Had the former been his object, he might have amaſſed immenſe wealth; he might have loſt the country, and have ſheltered himſelf ſo ſecurely under general orders, and want of inſtruction, that no accuſation could have touched him.

The principal objection made by the Managers, is to the means which he made uſe of to ſave his country; but in my opinion, it is not enough for

the accuſers to prove that the means were bad, unleſs they could ſhew that the accuſed had the choice of better. The revenues of Bengal were ſufficient for every purpoſe of government and trade, in a time of peace, but not for a long and complicated war. Money was borrowed of individuals as long as there was any to lend. Bonds bore ſo great a diſcount, that it was in vain to attempt a loan. The government of India could not draw bills upon the Company without flying in the face of an act of parliament, beyond a certain amount. To this prohibited reſource they were at length driven, and the bill-holders were for a long time in a very uncertain ſtate, with reſpect to acceptance and payment; and ſome of the holders obliged to wait for their money much longer than they expected or agreed for. Perhaps it might have looked more noble, if the neceſſity had been avowed, and the ſeizure made by our own troops, without the intervention of the Nabob. It would have deprived Mr. Sheridan of the moſt pathetic and affecting part of his Speech, that of making the ſon the inſtrument of puniſhing his mother. But there are many reaſons why that could not be done. It would have proclaimed our weakneſs to all India, and would have encouraged our enemies on all ſides to attack us. The Nabob had a legal claim, either as Heir or Sovereign, to the treaſure, which never could in *foro conſcientiæ* be abrogated and done away, without his own conſent. His agreement to accept a part, when he had not the offer or power of obtaining the whole, might be

valid

valid in a Court of Law, but never could be ſo in conſcience; for that would be to ſupport and encourage lawleſs detention of another's property. There was no way of obtaining the treaſure but through the Nabob, and that required management and addreſs. The Nabob was at times for, and at times againſt the meaſure; but his objection lay not to the want of rectitude or to the immorality of it, but knowing that the money, when received, would go to the liquidation of his debt to the Company, inſtead of coming into his own treaſure, he became indifferent, and even reluctant.

Mr. Haſtings, in his defence, ſays, that when he had hurt his own reputation, as he conceived would be the caſe, by permitting the Nabob to reſume the Jaghires of his mother and grandmother, and to confiſcate their treaſures, he was determined not to make that ſacrifice for nothing, and therefore directed Mr. Middleton to carry it into execution. He was apprehenſive alſo, that the Nabob would intimidate his parents with menaces, and privately obtain ſums of money from them, as the purchaſe of forbearance. This might have been one of his reaſons, but I think not the principal one; he would not have ſhewn all that anxiety, that uneaſineſs at unneceſſary delay, if that had been his ſole inducement. It was my opinion at the time, as it was of every Gentleman whom I converſed with in India on the ſubject, that it was the extremity of diſtreſs which urged him on the meaſure. It is the only point of view in which Mr. Haſtings's conduct appears unobjec-

objectionably reconcileable to reaſon and prudence. Suppoſing the relief of the then exigencies of State to be his object, every Letter that he wrote, every inſtruction that he gave; in ſhort, every thing which came out in evidence, all tend to one and the ſame point; all the means ſeem adapted to the end.

At the ſame time that I do, for my own part, believe theſe to have been very ſtrong motives for his conduct, I am under no doubt of his eſtabliſhing diſaffection and diſloyalty againſt the Begums, and that their offences were ſuch as to deſerve the treatment they received. It is not clear to me, that he will bring the charges home to either of theſe Ladies, ſo as to convict them of doing any perſonal act againſt the Engliſh Government, or the Nabob's; but that deficiency is owing to their ſex. Their Miniſters, and Fougedars, and their ſubjects, were notoriouſly hoſtile. Principals are always made reſponſible for their agents.

In a former part of this Letter, I ſaid that the Eunuchs were moſtly, if not wholly in fault, and I gave my reaſons for thinking ſo: I ſtill conſider them as the real offenders, and the only perſons that really ſuffered by the loſs of the lands and treaſures.

Our late war with the Dutch originated from the ſubjects of that State ſupplying the Americans with military ſtores, &c. All Sovereigns take upon themſelves, if able, to puniſh thoſe who aſſiſt their enemies. This, I believe, is allowed by all who have written on the Law of Nations. Upon this ground

ground Mr. Haſtings in a great meaſure reſts his Defence againſt this Charge, though I dare ſay he will acknowledge, that had the neceſſity for money been leſs preſſing, he might have been leſs urgent, and leſs anxious for the confiſcation.

Every perſon who coolly reflects upon what I have written, may diſcover the clue which unravels Mr. Haſtings's inmoſt thoughts upon the ſubject. He had failed at Benares of reſources: he meant to preſs the Nabob for payment of the debt he owed the Company, but he had not ſettled in his mind the means whereby the Nabob was to raiſe the money. Whilſt his mind remained in this deliberate ſtate, the Begums are accuſed (and to his mind, ſatisfactorily convicted) of aiding our enemies. Immediately, whether from the ſuggeſtion of the Nabob's Miniſter, of Sir Elijah Impey, or himſelf, he determines the confiſcation of that treaſure which he always thought unjuſtly detained by the mother from the ſon. Afterwards, when the Nabob began to triſle with him, Mr. Haſtings preſt him to the fulfilling of his engagement. If we ſuppoſe theſe to have been Mr. Haſtings's ideas on the ſubject, all the apparent inconſiſtencies are reconciled; and he juſt did what all Miniſters muſt do, namely, effect that by addreſs which he could not by a direct command or order.

Great exception is taken by the Managers to Mr. Haſtings's ſuppreſſion of correſpondence, and keeping things a ſecret from his colleagues. The word *Suppreſſion*, like that before mentioned of *Subornation*,

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is a word that catches the ear, and impoſes on the underſtanding of thoſe who are not well acquainted with the Company's orders to their Preſidencies on this ſubject. There is no Act of Parliament, nor ſtanding order of the Company, that requires nor enjoins the Governor General to lay all his Correſpondence of every kind before the Board; nor is there any time limited for laying before them ſuch parts as he is bound to lay before them. There is an order which ſays, that the Governor General ſhall *alone* correſpond with the Chiefs and Princes of India, but that he ſhall lay before the Board all the letters (or tranſlates) which he receives, and anſwer them with the concurrence of the Board. Under this order Mr. Haſtings might have correſponded with the Nabob's Miniſter, and have derived much uſeful information, without being obliged to make his Correſpondence known to the Board. But when, in conſequence of a private conſultation between Mr. Haſtings and the Nabob's Miniſter by letter, any meaſure was by them thought expedient, then it was undoubtedly proper that the Official Letter, propoſing it as an act of Government, ſhould be ſubmitted to the Board in the manner pointed out in the order above quoted. This I conceive to be the ſpirit of the order; but neither the word nor the ſpirit of the order apply to the preſent caſe; for Mr. Haſtings, whilſt out of the Company's Provinces, was himſelf the Supreme Council, that is, he had no occaſion to conſult any of his Colleagues with reſpect to the tranſactions in the Nabob's dominions:

minions: neither had the Members at Calcutta any occaſion to conſult his judgement in regard to the Company's Provinces. It was a diviſion of power between the Members of the Supreme Council, whether legal or not I cannot ſay, neither ſhall I inquire. After all, if there is any thing wrong in the ſuppreſſion of Letters, as the Managers call it, the beſt apology Mr. Haſtings can make is, to refer his accuſers to the arguments uſed by our Miniſtry when they gave Lord Cornwallis abſolute powers as often as he thought neceſſary to uſe them. The diviſions in our Cabinet Miniſtry would often overthrow all public buſineſs, were it not that they are obliged to act in concert or reſign; no ſuch obligation exiſted in the Supreme Council. But I have ſhewn, that all the turnings and windings in Mr. Haſtings's conduct, all the apparent contradictions, are owing to the oppoſition he ſo frequently met with in Council. It is the ſame in our Parliament, and ever muſt be in all divided power. The intereſts of men vary, and thence ariſe difficulties and obſtructions to public buſineſs.

If there were a Monarch in India to new-model the Supreme Council every time the Members carried their diſputes too far, or ſo as to impede public buſineſs or endanger the ſafety of the State, there would be no harm in their litigations; on the contrary, their diſputes would operate like the Oppoſition in Parliament; it would prevent abuſe of authority. But as that is not the caſe, and as the balance of power was in Mr. Haſtings's time always

ſhifting from ſide to ſide, innumerable evils reſulted from it. The fault lay in the Conſtitution, which is now rectified. But were I to undertake the taſk, I have no doubt of being able to prove, that every evil complained of, that all the miſconduct of the ſeveral Preſidencies in India, aroſe from conſtitutional defects, and want of wiſdom in thoſe who planned and erected the ſyſtem of government; and yet, when we conſider the ſudden, rapid, and unexpected growth of the Engliſh empire in India, we cannot much wonder at obſerving ſo many defects in the Conſtitution. Experience only can diſcover the beſt mode of government, and we have not yet had India long enough to find out the beſt policy.

One evil muſt naturally ariſe from this Impeachment, and the conſequences may be ſeverely felt in another war. No prudent Governor will hereafter truſt to the rectitude of his own intentions: he will not go beyond the preſcribed line of his duty; for to whatever extremities he may be reduced for money in peace or war, he muſt content himſelf with the ordinary reſources of the year. Should his government be threatened by an invading enemy, or by internal ſedition, he muſt look into the Book of Orders, and if he cannot find an approved precedent or rule there, which will apply preciſely to the caſe before him, he muſt wait till the invaders have taken poſt in the country, or till unreſtrained ſedition has diffuſed itſelf over every part of it. He would then find that he had nothing left but an obſtructed revenue, a weakened credit, and a ſinking reputation.

reputation. With theſe he might ſave the country committed to his care, if he could. I ſee but one way of avoiding ſimilar caſes of difficulty, nor am I quite certain whether it would anſwer or not: it is that of permitting the Government of India to draw Bills on the Company in time of war and real diſtreſs; for the payment of which the Britiſh Parliament ſhould become ſecurity. I am of opinion no man will ever lend on bond ſecurity again in India. The remembrance of the vaſt diſcount, and the terms of remittance, will deter every prudent man from thinking of it. Bills on England, ſecured in the manner I propoſe, would get all the ready money from individuals; but whether enough could be obtained in that manner, I know not.

I have heard Mr. Burke ſpoken of as a very humane man, as one poſſeſſed of all the virtues that can render a private character dear to ſociety. For all thoſe qualities I give him entire credit; but when I conſider his political principles, I cannot help thinking them detrimental to the intereſts of his country. I do not allude to the preſent caſe, which I conſider but as one branch of a great and wide ſpreading tree. It were eaſy to trace all, or by much the greater part of his political conduct, up to the republican principles which he avows. Certain cauſes muſt produce certain effects; and I do conſider it as a very unfortunate circumſtance for this kingdom, that a man poſſeſſed of ſuch natural and acquired endowments, ſhould entertain the principles he is

known to do. He has been in the minority much the greater part of his parliamentary life, where he ſeems to have oppoſed upon the true principle of oppoſition, namely, that the Miniſter muſt be always in the wrong. I have heard that he wrote a book, to prove that a bad adminiſtration muſt and ſhould be oppoſed in every meaſure, with a view of overturning it. Suppoſing this principle to be juſt, who is to decide on the goodneſs or badneſs of adminiſtration, and to determine what adminiſtration ſhould be ſupported or oppoſed? I never ſaw, though I have often wiſhed to ſee this curious performance; I ſpeak from report only. To theſe republican principles I impute in a great meaſure the loſs of America, and all the changes which have happened of late years in the connection of Ireland and Great Britain. The connection is undoubtedly weakened, or at leaſt ſtands upon a different footing to what it was before the American war. To theſe ſame republican principles I impute the preſent impeachment, but at the ſame time I do not condemn Mr. Burke, or any other member of oppoſition, for entertaining them; I only lament it. If Mr. Burke is convinced that his principles are right, he does well in acting under them; but if he thought with me, that the doctrines which he maintains have already loſt us one country, and broke a link in the chain which holds us to another, and that they muſt ultimately endanger, if not loſe to us our poſſeſſions in the Eaſt, he would undoubtedly change his conduct. I by no means inſinuate that Mr. Burke intentionally would injure his country,

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for I ſee many reaſons why he ſhould not entertain ſuch a wiſh, and none why he ſhould; but I think him miſtaken as to the mode of ſerving it.

An attentive reader of what I have written, might aſk, How comes it that the Nabob is ſo very much under the influence of the Engliſh Government?

To explain this briefly, you muſt know that Aſoph ul Dowla is by nature extremely weak, indolent, and inactive. Soon after the death of his father his troops mutinied, and it required the aſſiſtance of an Engliſh Brigade to ſubdue them. There is no doubt but this mutiny aroſe from the Begums detaining the treaſures left in the Zenana, and which have proved to be the foundation of this impeachment, or at leaſt of this article. This detention of the treaſures compelled the Nabob to accept the hard conditions impoſed upon him by the Supreme Council in 1775, viz. the relinquiſhment of Benares and Ghazepore to the Company, and the increaſe of the monthly ſubſidy for the pay of the troops.

The next conſequence was, that the Nabob applied for Engliſh officers to command his own troops. They were granted him. In a ſhort time theſe troops were formed into a temporary brigade, paid by the Nabob; and ſoon after, the duty of the temporary brigade was done by detachments from the Company's brigades. The name temporary was done away, and with it all their dependance upon the Nabob, their maſter. In this gradual way, the Nabob loſt his army. It began in 1776, and was brought into its laſt ſtage in 1779. It has remained ſo ever

ever ſince. But this is not the only way in which the Nabob was ſtripped of his authority. But to explain the other will be rather difficult, without giving ſome previous account of the mode of paying public debts in India. When a Nabob owes a ſum of money, he frequently gives a Tuncaw, or aſſignment of ſome part of his revenue for that year, juſt as if you ſhould ſuppoſe our treaſury board to give the King of Pruſſia an aſſignment of the land-tax of Wales to pay a ſubſidy, or the hire of his troops.

The collecting of the revenue gives a vaſt influence to Tuncaw holder over that country, particularly in India, where collections are uſually made by an armed force, and not in a peaceable manner, and by equitable aſſeſſment, as is practiſed in England.—To pay the temporary brigade, and another brigade of the Company's ſtationed in the Nabob's dominions, together with all the civil eſtabliſhment at Lucknow, and a ſubſidy annually remitted to Calcutta, required near half of the Nabob's revenues. The reſident at Lucknow received the Tuncaws, and the Aumeels, under his inſpection, made the collections: the conſequence of which was, that the reſident's influence was almoſt irreſiſtible. Being thus deprived of his army, and part of his country, it was not in the Nabob's power to diſpute the pleaſure of the Engliſh Government. If it be ſaid, that the Supreme Council did wrong in thus tying up the hands of the Nabob, Mr. Haſtings will ſay that General Clavering, Mr. Monſon, and Mr. Francis, laid the foundation, and he built upon it. If the principle of this

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incroachment be attacked as immoral and unjuſt, the accuſation will be againſt human nature. There neither is, nor ever was, and probably never will be, thatſtate which would not take advantage of a weaker one if it could. France, England, and Pruſſia have done the ſame with Holland, as far as it lay in their power, ever ſince it was ſevered from Spain; and though neither of theſe powers have yet ſubjugated that republic, the forbearance is not owing to clemency, but to the jealous eye of their neighbours, who watchfully endeavour to keep up the balance of power. Poland affords a recent example of the natural propenſity Sovereigns in general have to increaſe their own territories, and to diminiſh thoſe of their neighbours. If the gaining of this aſcendancy in the Councils of the Nabob be unjuſt and blameable, it may be ſaid in favour of Mr. Haſtings, that he purſued the ſteps of his predeceſſors in India, and the example of all the ſtateſmen in the world.

Except in the preſent inſtance, I believe there is not a caſe to be found in the hiſtory of the world, where a Governor was brought to trial for conſulting the intereſt of his employers too much, and their allies too little.

The fault generally imputed to our miniſters is, that in their continental negociations, the advantages are againſt them; but in the conduct of the Company's ſervants, the objection is quite the reverſe, and that the advantages are too much for them. What ſhall we ſay then, or where ſhall we draw the

line? Or how ſhall we determine upon what is right and wrong in political queſtions? One principle we have to go by, which I have never yet heard controverted, namely, that you ſhould love and ſerve your country; but the defect is, that the boundary of this love to our country is not fixed: you may do too much as well as too little.

Having now given the outlines of this article of impeachment (for I do not pretend to ſay that I have entered into every aggravating item and allegation, which would be tedioufly unneceſſary) I ſhall juſt recapitulate the principal points, upon which the deciſion will ultimately reſt.

The firſt queſtion is, Whether the treaſure left by Sujah Dowla was the property of the widow or the ſon?

To that I anſwer, that it could not be the widow's —it might be the ſon's, as a ſucceeding ſovereign, or it might be his proportionally, according to the Mahommedan law of diſtribution. But it is to be obſerved, that in the latter caſe, all the debts of the deceaſed muſt have been paid before any diſtribution took place. The arrears of the army, and the debt to the Company, would have ſwallowed up a million and a half, which is much more than has yet been recovered from the Begum.

The ſecond queſtion is, Whether the Nabob's accepting a part, and giving a releaſe for the remainder, guaranteed by the Company, can in *foro conſcientiæ* confer a right on the mother, which ſhe had not before.

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This is a matter of conſcience, and different men will give different opinions.

The third queſtion is, Whether the information Mr. Haſtings received reſpecting the Begum's aſſiſting Cheyt Sing in his rebellion, is a ground of juſtification for without drawing the guarantee, and urging the Nabob to take away the diſputed treaſures, and commute the jaghires for an annuity of equal value?

The fourth queſtion is, Whether a State neceſſity did exiſt in India at the time, or whether it were ſtrong enough to have juſtified a violent uſurpation of private property, even though the Begums had done nothing amiſs?

Theſe are the principal points upon which this article depends. It may be argued and decided upon any of theſe grounds ſeparately, or upon all collectively; but the Managers have ſo loaded the proceedings with extraneous matter, that people who have not all the documents before them, or are unaccuſtomed to laborious inveſtigations, are totally led away from the main point. I do not mean, that the Lords are led away, for they are in poſſeſſion of all the printed evidence, and I ſuppoſe the ſpeeches alſo, but I mean the audience in the gallery, who hear and attend to thoſe parts only which rouſe their paſſions. If Mr. Haſtings did right in withdrawing the guarantee upon either of the grounds I have ſtated, it will be ill worth while to inquire into the means whereby he prevailed on the Nabob to execute, or the manner in which the confiſcation was executed.

Mr. Sheridan is a very judicious advocate for any ſide of the queſtion he takes up: in his ſpeech he touched but ſlightly on the queſtion of right, but ſeemed to reſt his hope of ſucceſs on an appeal to the paſſions. For this reaſon he played the ſame game as Mr. Burke did in the opening of the impeachment. He contrived to make the Houſe of Commons believe, and he endeavoured to make the Lords think the ſame, that all the diſtreſſes which the Ladies of the leſſer Palace ſuffered, were in conſequence of ſeizing the Begum's treaſure. But they are circumſtances totally unconnected, and perfectly independent of each other. The former did not derive their ſupport from the latter, nor was it fit they ſhould. A wife is a very improper truſtee for her huſband's miſtreſſes and natural children. The Ladies of the leſſer palace derived their maintenance from a jaghire or aſſignment, through Letafat Ally Cawn, and it was from his deception or failure, that they ſuffered inconvenience and diſtreſs; but it cannot be ſuppoſed that the time in queſtion was the only time that he diſappointed them. No doubt it happened often, though not known to the Engliſh. Neither would the Nabob ſuffer any Engliſh gentlemen to ſay a word about theſe women, for he was highly offended with Major Gilpin for mentioning them in his letter to the reſident. And I can ſpeak from my own knowledge, that according to the cuſtoms and etiquette of the country, there was great reaſon for offence. Major Gilpin acted as every humane man would do; but the Nabob did not reliſh that

that ſpecies of humanity; neither would any Muſſulman have liked it better. Mr. Sheridan in like manner has expatiated on the ſufferings of the Begums.

But after all, when we bring it down to common life, and compare it with things to which we are all accuſtomed, it amounts by compariſon to this only: A Lady of very high rank, next to Royalty, a Ducheſs for example, at the death of her huſband gets poſſeſſion of all his ready money, bills, bonds, &c. to a very large amount; ſhe refuſes to divide with her ſon, and keeps it all upon the plea of right, a right founded on poſſeſſion and nothing elſe. The ſon does not chooſe to go to extremities with his mother, and borrows as much as he can, with a promiſe, not a deſign of repayment. At laſt he gives way to over-ruling perſuaſion, almoſt amounting to compulſion, accepts a farther ſum, with a remiſſion of what he had already borrowed, and renounces his claim to the remainder. Afterwards, the party that in a manner compelled the compromiſe, withdraws his influence, and the ſon, conſidering his claim no longer barred, takes from the mother what he ought to have had years before. Where is the injuſtice in this? Not where the MANAGERS place it. It lies in Mr. Briſtow, who made ſuch bad terms for the Nabob, and if he did not make better for himſelf, it would reflect on his judgement; and in the Begum, who would not divide her huſband's property with his ſon. In thoſe two lay injuſtice, and in the Nabob lay extreme folly, unleſs he went upon a ſuppoſition that he could ſtill make it his own by loan, or ſeizure, when he liked.

This is the true ſtate of the fact, when ſtripped of its colours. But to make it ſtrike forcibly on the minds of the people of England, the Begums are called *Princeſſes*, which they really are not. I ſaid in the beginning of this letter, that *Begum* ſignifies *Queen*; in that I followed the authority of MENINSKI; but I have either heard from the natives of India, or ſeen in ſome of their Dictionaries, that *Begum* is the feminine of *Beg*. *Beg* is a common Mogul title, ſynonimous to Lord. But be this as it will, there is nothing royal either in the Nabob or his parents. Caſes full as hard as this happen very often in our Courts at Weſtminſter. If my mother detained my property by force, the Judges would decide as between *A.* and *B.*; and if I made out my claim to their ſatisfaction, they would ſend their officers to break open my mother's locks, and put me in poſſeſſion of what ſhe might be unjuſt enough to withhold: and though I might have given my mother a deed of renunciation for the whole, upon receiving only a part, yet equity would annul that deed, if I could prove that it was obtained from me by any undue influence or improper means. It is true, a long examination took place, to ſhew the Court that great cruelties were made uſe of in getting poſſeſſion of the treaſure. The Eunuchs were impriſoned and put in irons, I grant, but the irons were more afflictive to the mind than to the body; for in regard to what they really ſuffered in their perſons, there are at this hour many debtors in the King's Bench, and other gaols, who ſuffer infinitely more than they did, and have much more cauſe

cauſe for complaint. Beſides, they might have been releaſed at any time, by paying the ſtipulated ſum. It is well known that it was in their power to have done it at any time; and there are inſinuations in ſome of their correſpondence with the Begum, whilſt in confinement, that would lead one to think they could have diſcovered much more than they did. But I do not ſee how Mr. Haſtings can be anſwerable for the means made uſe of to recover the money: it was all done by the direction of the Nabob, who knew the proper method much better than any Engliſhman could do.

Mr. Haſtings muſt be conſidered in the ſame light as a Judge is here. The Judge muſt take care that judgement is not illegally granted againſt my property; but in the execution of the judgement, the Judge is not concerned, nor will he inquire into it, unleſs I complain by ſome kind of ſuit againſt the Sheriff or his officers. Every thing the Begums or the Eunuchs ſuffered, was owing to their reſiſtance. But it would be the ſame in this country; for if the execution of a judgement be reſiſted, the Sheriff will aſſemble a body of men and wage war with the defendant. Such was the caſe with the Begum, *mutatis mutandis*, that is, when we make the neceſſary allowances for the difference in the laws and cuſtoms of the two countries, and conſider alſo the rank of the parties. The method adopted was the only one. No Judge could decide between the Nabob and his mother; the former was unavoidably, what no man ſhould be, the arbiter of his own cauſe; he was the

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executing officer of his own ſentence. The truth is, he was above the law of the land, but we may ſtill examine his conduct by the laws of Indoſtan, and the law of reaſon. The queſtion then is, Did the Nabob do more, or was he adviſed to do more than a *Cazy*, that is, an Indoſtan Judge, or an Engliſh Judge, would have awarded in a like caſe, between individuals whoſe rank had ſubjected them to legal determination?

This laſt queſtion can be anſwered by thoſe only who have made the Mahommedan law their ſtudy. But though I have looked into the books upon this head, I have not materials enough to form a decided judgement upon the right, with reſpect to Mahommedan laws and cuſtoms, and muſt therefore leave it to better-informed men. I mean, I am not certain whether the treaſure left by Sujah Dowla was ſtate property or private property; but I am certain Mr. Sheridan's Zenana law has no exiſtence but in his imagination. My doubts are confined to the two former ſuppoſitions, whether the ſon ought to inherit the treaſures in capacity of Sovereign, or to follow the laws of the *Coran*, and take the ſame ſhare as a private individual would have in a ſimilar caſe. Were I the advocate of Mr. Haſtings, or inclined to throw a ridicule on the doctrine of his accuſers, I might ſay, that they have erected not only a linguafactory of characters, but a linguafactory of laws alſo.

The more I reflect on the nature and incertitude of State criminality (and I have been led to conſider it

it a great deal, during the writing of theſe letters), the more I admire our own Conſtitution, and congratulate our Miniſtry upon their having the legiſlature at hand, to conſult upon all occaſions. If they have no rule or political cuſtom to guide their conduct, they can call together both Houſes of Parliament, and make a law for the emergency. But in India, the Supreme Council muſt act from their own diſcretion in all extraordinary caſes, and truſt to chance for approbation or condemnation. I ſay truſt to chance, becauſe, as the underſtandings, paſſions, and intereſts of men vary, ſo will their deciſions upon one and the ſame action differ in the like proportion. The only method, in my opinion, whereby we may ſafely judge of the conduct of a Miniſter of State, or Governor of a Province, is that adopted by phyſicians, when they inquire into the practice of each other.---Firſt, What was the diſeaſe? Were there more remedies than one? Did the practitioner take the ſafeſt and the beſt? Suppoſing there were but one remedy, were there more danger to be apprehended from the remedy than the diſeaſe?

This rule would bring Mr. Haſtings's caſe to a narrow compaſs. Did a political diſeaſe exiſt? Had the State Phyſician a choice of remedies? Did he take the beſt or only one in his power? Was the remedy or diſeaſe moſt likely to prove fatal to the conſtitution of the patient?

No man can ever form a proper judgement on Mr. Haſtings's conduct, who does not firſt make himſelf maſter of the ſubject, and then aſk himſelf this

this queſtion—Could I in the ſame ſituation, all circumſtances conſidered, have acted better? After all, if it can be made appear, that his motives were in any degree ſelfiſh, or originated from any of thoſe baſe paſſions which diſturb and diſgrace the human mind, no man would be more ready to condemn him than myſelf, and I believe all mankind will join in the opinion.

Since theſe Letters, written originally for the reaſons formerly ſtated to the public, were delivered to the Printer, I have read Mr. Erſkine's ſpeech in defence of *Stockdale*. I have heard that it was taken down very correctly, I ſhall therefore conſider it as genuine. It certainly is replete with ſound arguments, but I am not going to add to the many panegyrics already and deſervedly paid to that maſterpiece of elocution—that Gentleman's fame, as an Advocate, requires no trumpet. But what I admire infinitely more than all he has ſaid, or poſſibly ever will ſay as an orator, is the generous part he has taken in the concerns of Mr. Haſtings. He is not the advocate of the accuſed, but the advocate of the cauſe of juſtice, that is, what he conceives to be the cauſe of juſtice. In all other political queſtions, he is the decided and zealous partizan of oppoſition. He acts in concert with the accuſers; yet in regard to the impeachment, he totally departs from them. He avows it publicly and privately.

I have heard the change of ſentiment in Mr. Pitt, upon the queſtion of impeachment, offered as a proof of guilt. I have heard it ſaid, that nothing but conviction

viction could have induced the Miniſter to take the part he did. God forbid that I ſhould impute any other motives to Mr. Pitt than internal conviction; but I certainly could figure to myſelf other motives for Mr. Pitt's conduct; that is, I think I could point out political reaſons, which might have their weight in moſt underſtandings. But with reſpect to Mr. Erſkine, I can ſee many political reaſons which might induce that Gentleman to act againſt Mr. Haſtings, but none that could induce him to ſpeak in his favour; I mean no political reaſons; and therefore when I hear of Mr. Erſkine's ſpeaking on the ſubject in the manner he did at Weſtminſter Hall, I muſt conclude that he was actuated by the nobleſt principle of the human mind, namely, the conſciouſneſs of what is due to injured innocence. If I am right in my concluſion, his conduct on this occaſion does infinitely more honour to his heart than all his eloquence, great as it is univerſally allowed to be, can poſſibly do to his head. I am totally unknown to Mr. Erſkine, and he is equally unknown to me, except by his fame and reputation. After having ſaid thus much in regard to the man, I muſt take notice of ſome parts of his ſpeech, which, however pleaſing they may be to Mr. Haſtings and his friends, do not meet my ideas at all. The parts I allude to are pages 85, 6, 7. In one part of page 86, Mr. Erſkine ſays, "It may and muſt be true that Mr. "Haſtings has offended againſt the rights and pri- "vileges of Aſiatic Government, if he was the faith- "ful Deputy of a Power, which could not main-

" tain itſelf for an hour without trampling upon " both. He may and muſt have offended againſt " the laws of God and nature, if he was the faith- " ful Viceroy of an empire, wreſted in blood from " the people to whom God and nature gave it."—I need not quote more, for the whole page, and part of the next go on in the ſame ſtile.

Mr. Erſkine would not have ſaid this, had he read diligently and attentively the hiſtories of Indoſtan ſince the firſt Mahommedan invaſion. The government of the India Company has been lenient in the extreme, when compared with the beſt Mogul Emperor that ever ſat on the throne. Nay more, I would undertake to prove, that no one act of Mr. Haſtings's government that I ever yet heard of, was worſe, more tyrannical, or unjuſt, than is done by every legiſlative power (whether in the hands of one man or many) repeatedly, and almoſt unobſervedly. This may be thought a very bold aſſertion, but it is a very true one. The expulſion of Cheyt Sing and the rebellion at Benares aroſe from the ſame cauſe as the American war; namely, reſiſted taxation. The taxing of Cheyt Sing was as politically neceſſary as the taxation of America, and in my opinion much more ſo. Parliament was anſwerable only for the principle upon which they taxed America, the rebellion followed in conſequence.—Mr. Haſtings is anſwerable for the principle upon which he taxed Cheyt Sing; the rebellion was, like the other, an unexpected and unforeſeen conſequence. The taking the treaſure from the Begum muſt

muſt be conſidered by all thoſe who think the Nabob was unjuſtly kept out of his patrimony, as an execution, like thoſe which Mr. Erſkine ſues out daily for his clients at Weſtminſter. But thoſe who think that theſe Ladies ought not to poſſeſs jaghires, and intruſt them to their eunuchs, will think the reſumption politically neceſſary, and ſimilar to our government's getting by commutation the ſovereignty of the Iſle of Man. Thoſe who think with Mr. Haſtings, that they aided our enemies, will conclude that the confiſcation was juſt, and grounded on the law of nations.

Whatever is done by a Parliament, we are apt to conſider juſt and equitable, in general, not always; but there being no appeal, the ſubjects muſt acquieſce, let them think what they may. But I wiſh any man to reflect, and put to himſelf this queſtion—If what is done by the Three Eſtates were done by the Cabinet, ſhould I not call it arbitrary and iniquitous? What can be the reaſon of this difference? It conſiſts in this; we are in the habit of ſubmitting to our divided legiſlature, and we think nothing can be right that has not the ſanction of King and Parliament; but had we been bred up under a legiſlature leſs extenſive, we ſhould have looked for no other ſanction. But there are two ways in which acts of government may be conſidered:—Firſt, whether they conform to rule and cuſtom; that is, whether the acts of government are performed by thoſe who have a preſcriptive and conſtitutional right to perform them? And ſecondly, whether thoſe Governors

acted diſcreetly, and had public good for their motive? If either of theſe fail, the act is wrong. In the former caſe, a regular fixed legiſlature cannot fail, but it may in the latter. With reſpect to the Supreme Council, both may be doubted; that, is, whether they can juſtify deviation from rules, or the acting legiſlatively or diſcretionally, upon the ſpur of the occaſion, or not. And alſo, whether, ſuppoſing them poſſeſſed of that right, they did act diſcreetly and uſefully or not? I ſay, that the Supreme Council at Calcutta may be attacked on either of theſe grounds.—You may ſay, they had no right to uſe extraordinary means to meet extraordinary occaſions. You may ſay, the means uſed were more oppreſſive and unjuſt than they need to have been. To apply this reaſoning to the preſent caſe, I ſay, that if Mr. Haſtings had a right, or is juſtified in uſing extraordinary means to raiſe ſupplies for the war in India, that the means were intentionally as innocent and good, as any means that are uſed in this country, in the raiſing of the annual ſupplies in time of war. People, in judging, conſider the agent more than the act. They ſay, who is this Mr. Haſtings, that taxes Princes, and acts thus from his own diſcretion? I ſhould anſwer, were I preſent at the queſtion—He was a Viceroy, ordered to preſerve a large country to the empire of Great Britain, whoſe conſtituents forgot to point out to him ſome legal method to raiſe extraordinary ſupplies for extraordinary occaſions. This Viceroy acted from his own judgement: he took what he thought the beſt method,

thod, but his judges think he was wrong; but they never have yet told him what he ought to have done. By his judges in this caſe, I mean the Houſe of Commons. It is a queſtion I have a thouſand times aſked; I have put it to Lords, Commons, and private individuals, but I never got an anſwer to it yet, that I could underſtand——Q. If Mr. Haſtings acted wrong, what ought he to have done?

Mr. Erſkine was certainly wrong in his admiſſions, and that I could demonſtrate to him, were I in habits of intimacy with him, and were we to diſcuſs the evidence on the Benares and the Oude charge, coolly and deliberately together.

I have now done with this charge, and ſhall proceed to that of the Preſents.

LET-

LETTER IV.

THIRD ARTICLE *of the* IMPEACHMENT.

THE

PRESENTS.

I AM now going to treat of the Third Article brought to trial, though it is numbered the Sixth in the catalogue of charges. The ſubject of this article is the receipt of preſents, which ſeem to be divided into two heads: the firſt is the concealed Preſents, as the Managers call them, and of which Mr. Haſtings denies the receipt. The ſecond is the avowed preſents; that is, ſuch as Mr. Haſtings admits having received for the Company's uſe.

Now you are to know, that an act was paſſed in the year 1773, and took place in September 1774, which prohibits the reception of Preſents; that is, it declares that no ſervant of the Company ſhall receive any donation from a native of India; and that if any gifts or preſents are received, they ſhall be paid to the Company, and conſidered as having been

been received for their uſe. I have not the act before me, and therefore cannot ſtate the words; but the conſtruction put upon the act was, that no individual could receive money by way of gift, for his own uſe, but that he might do ſo for the benefit of the Company. There is certainly an obſcurity in the wording of the act, which is corrected by another paſſed in 1784: I mean, that the obſcure clauſes are cleared up; and it is declared, that no Preſent ſhall be taken either for the uſe of the individual or the Company.

By the act above quoted, that clauſe in the preceding act, which ſubjects the receiver of preſents to certain penalties, is repealed, and cannot operate, unleſs the ſuit was actually commenced previous to the 1ſt of January 1785. I ſtate this, becauſe the Managers, by their own conſtruction of the act of 1773, conſider Mr. Haſtings as criminal, for having received preſents avowedly for the uſe of the Company. In this caſe it is obſervable, that what Mr. Haſtings conſidered as meritorious, by his conſtruction of the act, the Managers conſider as criminal, by their conſtruction of it; that is, the former thought he might legally accept preſents for the Company's uſe, and the latter think that he could not. This is a very nice and ſubtle point of law; but ſurely if there be any thing wrong in this, it muſt be imputed to thoſe who penned the act; for, if it were meant to exclude the Company, they ſhould have ſaid *neither for the uſe of himſelf or of the Company*; or they ſhould have ſaid, that neither the Company,

nor their *ſervants, ſhall receive preſents from the natives.* There could then have been no miſtake. I ſhould think the Managers will not inſiſt on this point; but if they do, and the Lords agree with them in the conſtruction of the act, Mr. Haſtings muſt be found guilty; that is, he will be found guilty of being a bad lawyer, but not guilty of having acted intentionally wrong.

In treating of theſe preſents, I ſhall begin with thoſe which the Managers call the concealed Preſents, and I ſhall, as I have done in the former charges, extract the ſubſtance of the accuſation and the defence: you may form ſome idea of the complexity of this article, when Mr. Burke was engaged three days, and part of the fourth, in opening it in part only. There is one thing in his opening which I cannot paſs over, though it is in fact irrelevant to the charge. It happened, that ſome time before the Houſe of Lords proceeded to the trial in April laſt, the natives of India ſent over a great number of petitions and memorials in favour of Mr. Haſtings. Mr. Burke got hold of them, and in order to do away their effect, he deſires the Lords to *conſider thoſe who ſigned the petitions, as people that are forced to mix their praiſes with their groans; forced to ſign with their hands that had been in torture; while yet warm with the thumb-ſcrews upon them, forced to ſign his praiſes; and that will, I hope, give your Lordſhips a full and ſatisfactory proof of the miſeries of theſe poor people.* You have often heard me expreſs myſelf with much indignation againſt all orators, from De-

Demoſthenes down to the preſent moment. The more I read the moſt I hate of what is called eloquence and oratory, the more I deteſt and deſpiſe it. Could Mr. Burke poſſibly believe what he ſaid, or was it only a figure to divert the ladies? I dare ſay there was not one man who ſigned the petitions, that ever wore a thumb-ſcrew in his life; but if they had, how could Mr. Haſtings in England, or his friends in India (if he has any there) force the injured natives to ſign petitions in favour of the accuſed, while Lord Cornwallis is Governor General? Mr. Haſtings had no intereſt in India among the natives, at the time the petitions were ſigned. Is not this enough to deſtroy the credit of every thing Mr. Burke has ſaid upon the buſineſs of the impeachment? It may be ſaid, that orators muſt be allowed the privilege of amplification; but how ſhall the hearer know what deductions he ought to make on the credit ſide, unleſs the ſpeaker were to furniſh him with a table of ratios and diſcounts. You may, perhaps, think this a ludicrous idea, but I am really very ſerious. It is very neceſſary that every accuſer ſhould be prevented from aggravating, or that he ſhould give in his ſcale of aggravations, otherwiſe the criminality of the accuſed muſt vary according to the different degrees of elocution in the accuſers.—To illuſtrate this, the ſame offence which in the mouth of Mr. Grey would be brown, in the mouth of Mr. Adam would be dark, and in the mouths of Mr. Fox, Mr. Burke, or Mr. Sheridan, would be as black as charcoal.

It is neceſſary to premiſe, that when I may have occaſion to ſpeak of the Nabob, I mean the Nabob of Bengal, named Mobarech ul Dowla, and not the Nabob of Oude, who are as diſtinct perſons as the Kings of France and Pruſſia: and that when I ſpeak of the Begum, it is a lady totally diſtinct from thoſe I ſpoke of in my former letters. The ſcene hitherto has lain in Oude, and the vicinity of Oude, which are not provinces belonging to the Company, but to Aſoph ul Dowla, Subahdar of Oude, though the influence of the Company was and is very great throughout his dominions. But the ſcene now lies in the Company's provinces, viz. Bengal, Behar, and Oriſſa.

I formerly explained the meaning of Dewan and of Dewanny. The former is the Collector, the latter the collection of the Revenues. I ſhall not give a detail of the means whereby the Company fixed their authority in Bengal, nor carry my inquiries farther back than to the year 1757, when Lord Clive obtained from the Emperor the Dewanny of the three provinces for the Company. It was then ſettled, that the Emperor ſhould have a tribute of 26 lacks, and the Nabob of Bengal 50 lacks of rupees annually. Though Lord Clive had thus obtained the Dewanny, the collections were made, not in the name of the Company, but in that of the Nabob, whoſe Deputy or Prime Miniſter was Mahomed Reza Cawn.

About the year 1770 or 1771, one of the Directors received information of ſome miſconduct in Ma-

Mahomed Reza Cawn, and a reſolution was formed to remove him from his office, and to make a ſtrict inquiry into his behaviour.—For this purpoſe, amongſt others, they removed Mr. Haſtings from his ſeat in the Council of Madras, and appointed him Preſident of the Council of Bengal.—I have in the former charges ſpoken of Mr. Haſtings by the title of Governor General, but his rank was that of Preſident only, until the year 1774.—The diſtinction is more nominal than eſſential, but I mention it to avoid confuſion.

In the year 1772, Mr. Haſtings ſucceeded Mr. Cartier; and ſoon after he had taken poſſeſſion of his office, he deprived Mahomed Reza Cawn of the Regency, in conſequence of the expreſs orders he had received from the Court of Directors. But as by that deprivation, the young Nabob, then a minor, was left without a guardian, it became neceſſary to fill up that office. But the queſtion was, who was the moſt eligible: the choice fell upon Munny Begum.—This lady, whatever ſhe might have been by birth and parentage, was of great importance in the country, long before the Engliſh had eſtabliſhed their authority in India.—She was the favourite wife of the Nabob Jaffier, who appointed her ſon to be his ſucceſſor in the Subahdary. It is in India as it is in England, a man may raiſe a woman up to his own rank, though a woman cannot elevate a man. Mr. Burke was very violent againſt this appointment; but the very reaſons which he aſſigned for her ineligibility, were the very

ſons which induced the Preſident and Council to elect her, and the Court of Directors to approve their choice.

Mr. Burke contends, that as ſhe was a woman ſhut up in a Seraglio, or Zenana, ſhe was incapable of tranſacting public buſineſs. So ſhe was: but it was intended that her Servants or Miniſters ſhould be under the influence and controul of the Preſidency at Calcutta. To have appointed the young Nabob's uncle to the office of Guardian, would have expoſed the perſon of the minor to great danger, and the ſtate to many inconveniencies. Mr. Haſtings, in a Letter to the Directors, gave ſo many and ſo very ſtrong reaſons for the choice he had made, that they expreſſed their ſatisfaction in the moſt decided manner.

By making it appear that this woman was wholly unqualified for the truſt, Mr. Burke endeavours at making the Lords believe that her appointment was purchaſed from Mr. Haſtings.—Whereas the true ſtate of the caſe is, that it was the wiſh of the Directors, and the object of Mr. Haſtings, to eſtabliſh the doctrine of paſſive obedience and non-reſiſtance in the Nabob's Court, and not to introduce a perſon into authority, who might ſeek occaſion to turn it againſt themſelves.

Mahomed Reza Cawn, who, as I mentioned before, was Deputy Subahdar from 1765 to 1772, was now deprived of his office, and taken from Morſhedabad, the ſeat of the Nabob's Government, to Calcutta, where he was kept for ſome time. In the

the interim, Rajah Gourdaſs, the ſon of Nundcomar, was appointed Deputy Dewan, whilſt Munny Begum had the care of the Nabob's perſon and houſehold.—In the appointment of Rajah Gourdaſs, Mr. Haſtings ſeems to have relied much on the abilities of his father, Nundcomar, whom he endeavoured, though with very little ſucceſs, to make inſtrumental in the diſcovery of the miſconduct of Mahomed Reza Cawn. This degraded Miniſter ſtood accuſed of cauſing, or increaſing a famine, by the monopoly of rice, and alſo of various other miſdemeanours. A reduction was at that time made by order of the Directors, of the annual expences of the Nabob's houſehold, down to 16 lacks of rupees. The diſburſement of this ſum was under the inſpection of Munny Begum, in conſequence of her becoming guardian to the young Nabob's perſon. The alteration took place in the year 1772, at no great diſtance of time after Mr. Haſtings ſucceeded to the Preſidency of Bengal. But two years afterwards, a very great change was made in the Government of India.

By Act of Parliament, paſſed in 1773, and which took effect in 1774, the Preſident and Council were done away, and a new Adminiſtration was formed, conſiſting of a Governor-General and four Counſellors. It took the name of the Supreme Council, and was entruſted with much greater powers than the preceding Government had been. Mr. Haſtings and Mr. Barwell were the only two in the Supreme Council who had made part of the laſt Adminiſtration:

tion :—three Members came from England, viz. Sir John Clavering, Mr. Monſon, and Mr. Francis. They arrived in October 1774, and immediately diſcovered a diſpoſition very inimical to Mr. Haſtings. The Court of Directors had given orders to the Supreme Council to inquire diligently into the mal-practices of their Servants in India, and this taſk the new Members zealouſly engaged in.—Accordingly, in March 1775, about five or ſix months after their arrival in India, Mr. Francis introduced to the notice of the Board a long paper from Nundcomar, ſtating, among a variety of other matter, that Mr. Haſtings had received from himſelf (Nundcomar) a lack of rupees, for appointing his ſon, Rajah Gourdaſs, to the office of Deputy Dewan, and another lack from Munny Begum, for appointing her guardian to the minor; and alſo a lack and a half more from the ſame Lady, by way of entertainment, for the ſame reaſon. Two days after the delivery of the above-mentioned paper, Mr. Monſon moved that Nundcomar ſhould be called before the Board, and examined upon the contents of the Letter he had written. Mr. Haſtings ſaw through their intention, and reſolved not to ſubject himſelf to a perſonal inſult. He propoſed to his colleagues to form themſelves into a Committee, and to examine his accuſer as much as they choſe; declaring at the ſame time, that he would not degrade himſelf by appearing as a criminal, where it was his right to preſide. Though this would have anſwered every purpoſe of inveſtigation, had that been their only

only object, yet the majority rejected the propoſition. By the majority I mean Sir John Clavering, Mr. Monſon, and Mr. Francis, who upon moſt queſtions divided againſt Mr. Haſtings and Mr. Barwell. I never yet heard any ſatisfactory reaſon aſſigned for not examining Nundcomar in a Committee. It is probable they may have had many reaſons, but the only two that ſuggeſt themſelves to my mind, are theſe: Firſt, it is likely they wiſhed to mortify the Governor General, and to convince all Indoſtan of their own ſuperiority. And ſecondly, to ſtrengthen Nundcomar's evidence, by their obſervations upon Mr. Haſtings's conduct during the examination. Theſe are reaſons of my own ſuggeſtion, I by no means vouch for the truth of them. They could hardly expect that Mr. Haſtings would ſubmit to be inſulted by Nundcomar; and I believe there is no man of common ſpirit but will approve of Mr. Haſtings's conduct in this refuſal. As the majority perſiſted in calling in the accuſer, the Governor General diſſolved the Council, but they voted the diſſolution illegal, and continued to ſit. They called Nundcomar, and examined him, ſo that they obtained all the information they could have had, had Mr. Haſtings ſat by all the time of the examination.

About this time diſputes ran very high among the Gentlemen of the Supreme Council, and one Member carried it to a great length indeed. The Board, that is, the majority, ordered a confidential ſervant of Mr. Haſtings, named Cantoo Baboo, to attend them. He conſulted his maſter, who bade him not

go: he was ſummoned again, and went. General Clavering finding that his diſobedience was in conſequence of the prohibition of the Governor General, moved to have him put in the ſtocks. Cantoo Baboo was, by his office, the firſt native in Calcutta, and of ſo high a caſt as would have rendered the puniſhment worſe than death.—The General defended the propriety of the puniſhment, by ſaying that Mr. Haſtings had ordered ſome of the loweſt wretches in the country to be put in the ſtocks for acts of uncleanlineſs and of public nuiſance. The General muſt have known, that the blame was due to the maſter, and not to the ſervant; and that ſuch a puniſhment to ſuch a man, was equally as bad as it would have been to have taken an Officer, and flogged him in the front of his regiment. I mention this, not as pertinent to this charge, but merely to ſhow the acrimony of party at that time, and as a ſtrong proof, that their principal object was to humble and mortify Mr. Haſtings. Nothing but that determination could have urged General Clavering to think of ſo ſevere a puniſhment for ſo trifling an offence. Mr. Haſtings acted in this caſe as he did in the former; for he declared his reſolution to protect his ſervant at the hazard of his life. One of the Members, apprehenſive of the conſequences, moved to adjourn, and I believe there it ended.

To return to the Narrative.—In the May following (1775), the Board deputed Mr. Goring to examine the diſburſements of various ſums in ſeveral departments at Morſhedabad, and to deprive Mun-

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ny Begum of her office and authority: I mean that which had been conferred on her in the year 1772, by the former Adminiſtration. Among other powers granted to Mr. Goring by the majority, was that of removing the Begum from her Zenana, and placing her in ſome other houſe in the neighbourhood. There is an expreſſion in one of that Gentleman's Letters, which is of ſo curious a nature, that though it is foreign to my Narrative, I cannot paſs it over. It ſeems that the Begum hinted to him, that there were Courts of Juſtice at Calcutta to redreſs the injured; upon which he propoſes to the Board, that the confinement of the Begum's ſervants ſhould be done in the name of the Nabob; the intention of which was to avoid the danger of being made perſonally anſwerable for the oppreſſions he was about to commit.

I muſt here recall to your mind the Zenana doctrine preached up by Mr. Sheridan, in the former article. It was then ſacrilege to touch, nay to look into the Zenana of a woman of rank. That may be the opinion of Mr. Sheridan now, and alſo of Mr. Francis, but it could not have been the opinion of the latter, when he entruſted a young man with an abſolute power over the perſon of a Lady of the firſt rank in Bengal. With this power in his hands, and by threatening the Begum to make uſe of it, he had the mind of the Begum perfectly under controul; it was not putting her perſon on the wheel, but it was putting her mind on the rack. By theſe and ſuch like means, Mr. Goring prevailed on the

Begum to declare that ſhe had expended a lack and a half of rupees on Mr. Haſtings's entertainment, while he was at Morſhedabad. Whether Mr. Haſtings acknowldges the whole, or any part of this ſum, I know not; for that we muſt wait till we hear his defence. It is, however, the cuſtom of the country, when one Potentate viſits another, to defray the expence of his viſit; and had the Nabob viſited Mr. Haſtings at Calcutta, an expence would have fallen on the Company. It is a long eſtabliſhed cuſtom; and this tranſaction was prior to the Act of 1773, which prohibits the receipt of preſents.

I think I have now ſtated all that is neceſſary to be known by thoſe who are not ultimately to decide upon this queſtion. The charge is, that Mr. Haſtings received three lacks and a half of rupees, for the appointment of Munny Begum and Rajah Gourdaſs to their ſeveral offices. The allegations are ſupported by the extorted ſayings of Rajah Gourdaſs, the voluntary accuſation of Nundcomar, and as far as one lack and a half, by the extorted word of Munny Begum, who ſays, that while Mr. Haſtings was at Morſhedabad, he received two thouſand rupees a day, according to the eſtabliſhed cuſtom, in lieu of proviſions; but beyond that ſhe had not given a ſingle cowry.

But the greater part of this evidence, looſe and vague as it is, was held by the Judges of ſo inadmiſſible a nature, that the Managers could not prevail on the Court to let them read it. Mr. Haſtings's defence is not yet given in, ſo I cannot take

upon me to ſay what is proved and what is not. What I have already ſtated, is the ſubſtance of all that could be offered in evidence, even if the Proſecutors were allowed to read every thing.

Mr. Burke, in the courſe of bringing forward this Article, laid great ſtreſs upon the declaration of Nundcomar, and laboured hard to infer guilt from Mr. Haſtings's refuſal to confront his accuſer. He imputes that conduct to fear, and conſciouſneſs of guilt, which other people impute to a manly ſpirit and juſt ſenſe of his own dignity.

However, as the execution of this man formerly made a great noiſe in England, and as it furniſhed matter for an intended Impeachment of the Chief Juſtice who tried him, I will give a brief account of this extraordinary character—In the time of Meer Jaffier, he was Deputy Subahdar, or Prime Miniſter: after the death of the former, Mahomed Reza Cawn ſucceeded to that appointment. It is very natural to ſuppoſe, that Nundcomar muſt and would reſent his degradation. When he heard that Mr. Haſtings was about to ſucceed to the Chair of Bengal in 1771, or in the beginning of 1772, he ſent Letters to him at Madras, in the names of Ytram ul Dowla, the Nabob's uncle, and the Munny Begum. The Letters were filled with invectives againſt Mahomed Reza Cawn, and recommendation of himſelf. Mr. Haſtings afterwards found that Munny Begum had no knowledge of theſe Letters, and that they were a forgery of Nundcomar's. He had been convicted alſo of making

falſe accuſations concerning the receipt of preſents in the time of Lord Clive's government. It may be aſked, why did Mr. Haſtings employ a man of ſo infamous a character? The anſwer is, that he gave up his own will to the commands of the Court of Directors, who thought that Nundcomar's having filled the office himſelf in the time of Meer Jaffier, would qualify him for the diſcovery of the mal-practices of his ſucceſſor. Their hopes lay in the active malignity, as they expreſs it, of this man. They expected he would bring to light the embezzlement of very large ſums, and therefore enjoined Mr. Haſtings to make uſe of him in that way. The Court of Directors were diſappointed, for after a full inveſtigation, Mahomed Reza Cawn was acquitted, and Nundcomar imputed his failure to Mr. Haſtings's not ſupporting him, as he wiſhed. But the powers which he wanted, were ſuch as could not be granted in any State. His hopes of ſucceeding to wealth and honour being thus blaſted, Nundcomar turned his thoughts to revenge, and the diſpoſition of the majority towards Mr. Haſtings afforded him an early opportunity. Here you perceive the origin of this accuſation againſt Mr. Haſtings for bribery.

In the courſe of the trial, Mr. Burke declared, that if Mr. Haſtings attempted to invalidate the teſtimony of Nundcomer, by ſaying that he was of infamous character and hanged for forgery, he would prove that he was hanged by the Chief Juſtice, to ſcreen Mr. Haſtings from the accuſations brought againſt him for bribery. Theſe are not the preciſe words

words of Mr. Burke, but they are the purport of what he ſaid. A charge of this kind had been brought againſt the Chief Juſtice of Bengal in the preceding Seſſion of Parliament, and rejected. It is true, the majority for rejecting the charge was not great.

Mr. Haſtings, feeling himſelf much injured by Mr. Burke's ſaying at the bar of the Lords, in his delegated character of firſt Manager for the Houſe of Commons, that he had murdered Nuncomar through the medium of the Chief Juſtice, petitioned the Houſe of Commons to make it an article of charge againſt him, in order that he might have an opportunity of publicly refuting what he thought the groſſeſt of calumnies. This petition reduced the Houſe to a very awkward ſituation. It was impoſſible to grant the prayer of the petition without falling into the greateſt contradictions. How could they ſay in an additional article, that Mr. Haſtings had ſuborned the Chief Juſtice, when they had previouſly ſaid that the Chief Juſtice was not ſuborned by Mr. Haſtings. The conſequence was, that the Commons were under the neceſſity of diſavowing their firſt Manager. But as Mr. Burke and others of his party ſtill perſiſt in ſaying, that though the Commons have decided otherwiſe, they ſhall always maintain their former opinions, I ſhall digreſs a little farther, and ſtate in as few words as poſſible what I take to be the real fact. In doing this, I ſhall follow principally the evidence of Mr. Farrer, who was Nundcomar's advocate during his trial.

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The enemies of Mr. Haſtings and Sir Elijah Impey, wiſhing to have it thought that the accuſation for Forgery ſprung up againſt Nundcomar from the accuſation he had made againſt Mr. Haſtings for receiving preſents, carefully ſuppreſs one very material circumſtance. Mr. Farrer arrived in Calcutta at or before the formation of the Supreme Court of Judicature, and in about a month after his arrival, Mr. Driver, an attorney, informed him that a ſuit had been inſtituted againſt Nundcomar in the Mayor's Court; but as there was a Forgery in the caſe, he, Mr. Driver, had adviſed his client to inſtitute a criminal proſecution againſt Nundcomar, and that his client had agreed to the advice. There was, however, an obſtacle in their way: the original papers, without which the Forgery could not be eſtabliſhed, were lodged in the Mayor's Court, and though the Court were willing to grant copies, the originals could not be obtained.

Mr. Driver added, that the Mayor's Court was not ſo free from influence as could be wiſhed, when proceeding againſt ſuch a man as Nundcomar; but now, as a more independent court was eſtabliſhed, he ſhould adviſe his client to apply again for the original papers. Mr. Farrer, who was then on the proſecution ſide, moved the court for the papers, ſix weeks before Nundcomar's accuſation was produced at the board by Mr. Francis. It appears not to have been an eaſy matter to get poſſeſſion of the original papers: for I obſerve Mr. Farrer was obliged to repeat his application twice, before he obtained them.

Soon

Soon after this, Nundcomar was committed to priſon, and the proſecution began.

I have been more particular in ſtating this circumſtance, becauſe it proves beyond the poſſibility of contradiction, that the idea of trying him for forgery originated with Mr. Driver ſome time before Sir Elijah Impey arrived in Bengal. The trial went on in the regular way, and Nundcomar was convicted, to the ſatisfaction of every body. Mr. Farrer, in his evidence given before the Houſe of Commons, does not ſeem to expreſs a doubt of his guilt. On the contrary, it is evident that Nundcomar endeavoured to prove his innocence by the moſt glaring perjuries, and his witneſſes were proſecuted by order of the Court. It is true the forgery had been committed ſix years or more before the proſecution was undertaken, but there are many good reaſons for its not being done ſooner. It was a caſe between an executor and a debtor, in which the latter ſet up a forged Bond or Note againſt the claim of the former. The diſpute was referred to a Native Court of Juſtice, and thence to arbitration, about five months before the eſtabliſhment of the Supreme Court of Judicature at Bengal.

During the proceedings in the Native Court, Nundcomar was offered this alternative, either to refer the diſpute to arbitration, or to ſwear to the truth of his ſet-off. He declined both, but at length accepted the former.---There is nothing in the whole proceeding which appears to me objectionable, except the not reſpiting the convict till his Majeſty's pleaſure

pleaſure were known. Sir Elijah Impey in his defence has demonſtrated the legality of all he did; he has alſo fully ſhewn, that none of thoſe reaſons, which uſually induce Judges to recommend a convict to mercy, had any exiſtence in the caſe of Nundcomar; but there is one circumſtance which has eſcaped the Chief Juſtice, and which is applicable only to a convict in that country---Forgery is not a capital offence by the laws of Indoſtan, and it was made capital in England to anſwer commercial purpoſes only.---There is nothing but rigid neceſſity that can juſtify mankind in depriving their fellow-creatures of life. It is ſacrificing a few for the good of a great many. In England it might be wrong to pardon forgeries, becauſe it might encourage offences of that nature; but the reaſons which demand the execution of a penal ſtatute in this country, do not demand it in that. Every Judge muſt feel, when he enforces a penalty or ſentence beyond what the nature of the offence ſeems to require. Forgery is certainly in its own nature a very heinous offence, but not more ſo than any other fraud or deception which deprives a man of his juſt property; and yet one man may cheat me of my fortune, and no law will puniſh him for it, whilſt another, who by forging deprives me of a few pounds, forfeits his life for it.

It is nothing but the neceſſity of ſupporting commerce, that could have induced our Legiſlature to make one ſpecies of fraud ſo much more poſitively criminal than another. I think Sir Elijah Impey ſhould have reſpited Nundcomar upon this ground; but

but there are other reaſons why he might have reſpited execution. But in what I have ſaid, I give my own opinion only; I may be ſingular, and therefore do not wiſh any perſon to adopt it.

The Attorney-General, the preſent Lord Chancellor, in 1776, gave an opinion to the Eaſt India Company, on the ſubject of commencing a proſecution againſt Mr. Haſtings for the lack and a half of rupees, ſuppoſed to be received from Munny Begum---He ſays, "Nundcomar's evidence goes for nothing;" and why, becauſe after conviction, his oath cannot be taken. To Mr. Haſtings it could be of no conſequence whether the man was hanged or not. I never have been able to account for the deſertion of Nundcomar by Sir John Clavering, Mr. Monſon, and Mr. Francis. Had they applied to Sir Elijah Impey, I believe he would have reſpited him; but General Clavering, who received a Letter from Nundcomar before his execution, would not even open it till after he was hanged.

I have now gone through what Mr. Burke calls the *concealed Preſents*. There were two other allegations of the ſame nature, which I underſtand are abandoned, but why, I do not know; perhaps they are thought untenable.

It was my intention to have treated of the *avowed Preſents* in the ſame manner I have done with reſpect to the former. But upon looking over the Charges, I find a want of documents. As far as I have gone, I have drawn by much the greater part of my infor-

mation from the evidence, written and oral, adduced by the Managers in ſupport of the proſecution.

This part, which concerns the *avowed Preſents,* is expected to come on at the Meeting of Parliament, and has not yet been much entered into, ſo that I find it impoſſible to particularize, without the danger of miſ-ſtating ſome part or other, a thing I moſt carefully wiſh to avoid. I therefore muſt content myſelf with ſaying, that it appears by the Charges, that Mr. Haſtings received, for the uſe of the Company, above 200,000l. at different times, from the natives of India. I alſo underſtand from other channels of information, that above 40,000l. of the above ſum was received, entered, and expended in ſuch a way, as to excite ſuſpicion of Mr. Haſtings having had an intention of keeping the money for his own uſe. I cannot judge by what means the ſuſpicion will be maintained or ſupported, if what I hear be true, that the Managers have no evidence except what they draw from Mr. Haſtings's own ſtatement, and that of his attorney, the Accountant-General. Suppoſing theſe to be their only proofs, I do not ſee how guilt can be inferred from contradictions in accounts, particularly when it is conſidered that accounts in India are moſtly kept by the natives, and that in fitting the Hindoo dates and Mahommedan dates to the Engliſh, very great errors muſt unavoidably ariſe. Inſtead of drawing an argument in proof of guilt from the contradiction of accounts, I ſhould think it much more fair to conclude, that ſuch contradictions muſt be a proof of innocence. For whoever is poſſeſſed of all the informa-

formation, and intends to deceive, will never fail to make up ſuch an account as will not contradict and expoſe itſelf.

There is one argument which ſtruck me upon ſlightly caſting my eye over the ſtatement of the preſents, as made out by the Accountant-General, which is unanſwerable. I mean that thoſe preſents upon which the ſuſpicion is caſt, were received whilſt Mr. Francis was in India, and thoſe which were received afterwards, were carried to the public accounts without delay, and without any circuitous proceeding. The plain inference to be drawn from this, is, that Mr. Haſtings was in the time of Mr. Francis obliged to make uſe of indirect means to carry on the buſineſs of Government. He often wanted to expend ſums on ſecret ſervice, which he had every reaſon to believe Mr. Francis would oppoſe. But no ſooner was that gentleman gone from Bengal, than Mr. Haſtings, finding himſelf no longer under the neceſſity of taking indirect means, acted more openly and unequivocally. Now the fair way of reaſoning is, to ſay, that if Mr. Haſtings wiſhed to keep the Preſents for his own uſe, he had a better opportunity of doing it after Mr. Francis was gone than he had before: there was no active ſpy to inveſtigate his conduct. All the apparently irreconcileable parts of Mr. Haſtings's adminiſtration may, as I have more than once ſaid, be imputed to the oppoſition he met with in Council. He concealed the receipt of a ſum of money, and he ſent a ſum of nearly the ſame amount to purchaſe the forbearance of a Mahratta

army. Both theſe meaſures Mr. Francis would probably have condemned, at leaſt Mr. Haſtings feared he would. It is impoſſible for human ingenuity to account for Mr. Haſtings's concealing many tranſactions more in the time of Mr. Francis than afterwards, upon any other principle than that general averſion he had to litigate and fight with his colleague every inch of ground he advanced in the ſervice of his employers. I do take this argument to be a full anſwer to all that can be inferred from the inaccuracy of accounts; for I am certain no man, that ever was in India, will deny, that if *money* was the object of Mr. Haſtings, the beſt time for him to effect it, was after the departure of Mr. Francis.—Whereas we find, that when he was under no reſtraint, every Preſent was brought publicly to public account. It may be ſaid, this is arguing from ſuppoſition only; but ſurely when the intentions of a man are inferred and deduced from his acts in one inſtance, it is equally fair to do the ſame in another.

It is uſeleſs for me to argue this point any farther. It already carries conviction to my mind, and ſo it muſt remain till I hear ſomething againſt my argument, of which I can at preſent form no idea.

It is true, ſome of the bonds were received after Mr. Francis's departure, but the money was received before. Add to which, the coalition between Mr. Haſtings and Mr. Wheler was not ſtrengthened by experienced confidence and ſupport at the time of taking the bonds.

I have

I have now gone through all the Charges that are yet brought forward, and as there is a probability of there being already enough in hand to laſt till the Diſſolution of Parliament, I ſhall not meddle with the remainder.

One obſervation you muſt have made, namely, that all the Charges, except that made by Nundcomar fifteen years ago, are of a political nature, and whether they are held criminal or innocent by the Lords, it is evident that they originated from that defect in the Conſtitution of the Government in India, which has pointed out no legal means of providing for extraordinary occaſions. A queſtion naturally ariſes--- How comes it that Mr. Burke and his friends diſcover ſo much criminality in theſe proceedings? It is impoſſible to anſwer that queſtion, unleſs you impute motives which I would not impute to any man, by any other ſuppoſition than this, namely, that Mr. Burke drawing his ideas of right and wrong from the obſervations he has made in this country, cannot admit any meaſures to be right which has not the ſanction of the Britiſh Parliament. And yet this ſuppoſition will not totally anſwer the queſtion, becauſe we well know, that Mr. Burke has both the capacity and means to acquire as good a knowledge of the cuſtoms and manners of India as any man could poſſibly have, without being on the ſpot.

I am ſurprized much leſs at the ill reaſoning of the bulk of mankind on this queſtion, than I am at the arguments adduced by ſome of the Managers.

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They all know as well, or much better than I do, the impoſſibility of carrying on a war without money. They know alſo, that no State can raiſe the ſupplies for a war, particularly of a complicated one, within the year. And they know alſo, that out of five ways adopted by the Government in India to raiſe extraordinary ſupplies, three of them are made matter of impeachment. One of them was in one inſtance reprobated by the Directors, and another was ſo managed as to give great diſſatisfaction, for a time, to thoſe who were principally concerned.

I believe no human invention could have ſtruck out a ſixth method of raiſing money in India during the war. Government borrowed as long as any one would lend, and they opened their Treaſury for unlimited remittances; the laſt of which was ſeverely condemned, and the lenders haſtily ordered to take the money they had advanced back by inſtalments. They taxed Cheyt Sing, and Mr. Haſtings is impeached for it. The Nabob of Oude was urged to reſume the treaſure left by his father, and withheld from him by his mother, and Mr. Haſtings is impeached for it. The natives made preſents to Mr. Haſtings; he received them, and expended them in the Company's ſervice, and he is impeached for it. Now I would put this caſe very ſeriouſly to the feelings, and alſo the underſtanding of every man who will take the trouble to read what I have written.--- Every man muſt take this into very deep conſideration before he can with ſafety take upon him to judge of the merit or demerit of Mr. Haſtings. Neceſſity is

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the only thing that can legalize or juſtify taxation in any State: if it can juſtify taxation in one State, it can in another. But there is ſomething peculiar in Mr. Haſtings's caſe: his accuſers will neither let him raiſe money by taxation, nor voluntary donation. He ought not to have received money from the Nabob of Oude, becauſe he was poor; yet the Company was known to be much poorer. But if poverty was a good reaſon why a perſon ſhould not contribute to the aid of a ſinking, or even of a riſing State, it might be pleaded by many people, very effectually and juſtly, againſt the payment of taxes in this country.

Mr. Pitt inveighed for an hour againſt the diſproportion between the ſum Cheyt Sing ſhould have paid, and the ſum Mr. Haſtings propoſed fining him. It was in the ratio of ten to one; and yet Mr. Pitt does not ſcruple to bring in an act which fines a perſon for evading the duty upon a hat to the amount of three-pence, in the large ſum of 10l. The fine in this caſe is 800 to 1; but even upon a good hat, where the duty is 2s. the fine is in the proportion of 100 to 1. But almoſt all our penal ſtatutes lay on a penalty in a ratio much higher than Mr. Haſtings ever propoſed fining Cheyt Sing.

Before I take leave of this ſubject, I muſt take notice of ſomething which formerly fell from Lord Mulgrave:—he ſaid that ignorance was a *ſhabby excuſe*, and that it was of little avail in Mr. Haſtings to ſay that he miſunderſtood the Act of Parliament, and that he conceived the intention of the act to be the

reſtriction of Servants, and not of the Company, with reſpect to the receiving of Preſents. Poſſibly Mr. Haſtings may be wrong in his conſtruction of the clauſe, though I much doubt it; but this I can ſafely affirm, that Lord Mulgrave's aſſertion is much leſs defenſible than Mr. Haſtings's conſtruction of the Act in queſtion.

Having the ſtatute now before me, I will quote the clauſe at length, to enable you, and every one who reads this letter, to judge how ſeverely the words are taken againſt Mr. Haſtings, in order to make him criminal.

"And be it further enacted by the authority aforeſaid, That from and after the firſt day of Auguſt, one thouſand ſeven hundred and ſeventy-four, no perſon holding or exerciſing any civil or military office under the Crown, or the ſaid United Company, in the Eaſt Indies, ſhall accept, receive, or take, directly or indirectly, by himſelf, or any other perſon or perſons on his behalf, or for his uſe or benefit, of and from any of the Indian Princes or Powers, or their Miniſters or Agents (or any of the natives of Aſia), any preſent, gift, donation, gratuity, or reward, pecuniary or otherwiſe, upon any account, or on any pretence whatſoever; or any promiſe or engagement for any preſent, gift, donation, gratuity or reward: And if any perſon, holding or exerciſing any ſuch civil or military office, ſhall be guilty of any ſuch offence, and ſhall be thereof legally convicted in ſuch Supreme Court at Calcutta, or in the Mayor's Court in any other of the ſaid United Company's ſettlements where ſuch

ſuch offence ſhall have been committed; every ſuch perſon ſo convicted ſhall forfeit double the value of ſuch preſent, gift, donation, gratuity, or reward, ſo taken and received; one moiety of which forfeiture ſhall be to the ſaid united Company, and the other moiety to him or them who ſhall inform or proſecute for the ſame; and alſo ſhall and may be ſent to England by the order of the Governor and Council of the preſidency or ſettlement where the offender ſhall be convicted, unleſs ſuch perſon ſo convicted ſhall give ſufficient ſecurity to remove him or themſelves within twelve months after ſuch conviction.

"And it is hereby further enacted by the authority aforeſaid, That every ſuch preſent, gift, gratuity, donation, or reward, accepted, taken, or received, and all ſuch dealing or tranſaction, by way of traffic or commerce, of any kind whatſoever, carried on contrary to the true intent and meaning of this act, ſhall be deemed and conſtrued to have been received, taken, had, and done, to and for the ſole uſe of the ſaid united Company; and that the ſaid united Company, upon waving all penalties and forfeitures, ſhall and may ſue and proſecute for the recovery of the ſame, or the full value of ſuch preſent or gift, or the profits of ſuch trade reſpectively, together with intereſt, at the rate of five pounds per centum per annum, from the time of ſuch preſent, gift, gratuity, donation, or reward, being received, or of ſuch dealing or tranſaction, by way of traffic or commerce, as

aforeſaid, by action, for money had and received to the uſe of the ſaid Company."

To bring the criminating part of the clauſe into a narrower compaſs, ſo that the different members of the ſentence may be more readily connected together, I will abridge and analize it. It will ſtand thus, when a little reduced:—After the 1ſt of Auguſt, 1774, no ſervant of the King or Company, being in the Eaſt Indies, ſhall receive directly or indirectly, by himſelf (or any other perſon or perſons on his behalf, or for his uſe and benefit) from any native of Aſia, any gift, upon any account, or upon any pretence whatſoever. Thoſe lawyers who contend that this clauſe deprives a Governor of the power of taking preſents for the uſe of the Company, muſt, in their conſtruction, disjoin the monoſyllable *or*, all the words which I have put into a parentheſis, and then it will ſtand thus, No ſervant, &c. ſhall receive by himſelf, directly or indirectly, from any Aſiatic, any gift, upon any account, or on any pretence whatever. Taking the ſentence in this way, it may be contended, that the words *on any account*, or on any pretence, may exclude the Company alſo; that is, that no ſervant of the King or Company ſhall receive gifts from an Aſiatic, on any any account, not even on account of the King or Company. Dividing the ſentence in this way, a doubt may be raiſed, but the true meaning and intention of the clauſe is diſcoverable by the words in the parentheſis; which infer, that no ſervant of the King or Company ſhall receive a gift from a native

tive through the medium of another perſon, for his own uſe and benefit; but this clauſe does not ſay that a ſervant, &c. ſhall not receive, through the medium of another perſon, a gift for the uſe of the Company. It only reſtrains this middle-man or agent, from receiving gifts for the benefit of his principal, and not from receiving gifts for the uſe of the Company. Mr. Haſtings here might oppoſe quibble to quibble, and ſay, that I never ſaw nor received one rupee of the money. My agents received it, it is true, but they were reſtrained from receiving it for my uſe, but not reſtrained from receiving it for the uſe of the Company. Or, in other words, I am forbid the receipt of preſents by myſelf, and by my agents alſo for my uſe, but I am not forbid receiving preſents through an agent for the Company's uſe. I think no man can read the above clauſe, and ſeriouſly believe that it was the intention of the legiſlature to take away the Company's right to Peeſhcuſh, Nezer, and other cuſtomary donations, by ſuch vague and looſe words as are found in this queſtionable clauſe.

Had ſuch been the intention of Parliament, the Company would have oppoſed it, either by ſome of the Directors who were members of Parliament, or by Counſel. They were in this inſtance ſilently and unobſervedly deprived of a very valuable part of their charter. But it never was underſtood either by the Supreme Council at Calcutta, by the Court of Directors at home, or the King's Miniſters, that this act had taken away the Company's right to preſents.

If Mr. Haſtings was in an error, he was ſo in common with all others, and the miſtake might have continued to this moment, had not the diligent ſearch of his enemies brought this up againſt him. But ſuppoſing that Mr. Haſtings has miſunderſtood the Act, to which I by no means aſſent, there is ſtill another clauſe in a later Act, which cures the diſorder; for in the 24th of his preſent Majeſty, there is one clauſe which expreſsly forbids the receipt of gifts, &c. &c. for the uſe of the individual and the Company alſo. And another, which repeals ſo much of the Act above-mentioned (to wit, the 13th of George III.) as ſubjects any perſon receiving preſents to any penalty or forfeiture for ſo doing, provided no proſecution be commenced before the 1ſt of January, 1785. Surely if one Statute be ſtrained to its utmoſt, or even beyond its natural and obvious meaning, againſt him, another ought to be conſtrued in his favour, or at any rate it ſhould not be totally rejected. It does ſtrike me as a very hard caſe, if a repealed clauſe be revived againſt a man, and a living clauſe not ſuffered to operate in his favour.

Having now laid before you the clauſe from which the criminality is extracted, and ſhewing its obſcurity was ſuch as to lead many into error, I ſhall examine the validity of Lord Mulgrave's opinion.

Firſt, I would aſk him, whether any man, not a lawyer, would conſtrue the act differently from what Mr. Haſtings did? And whether he is himſelf at this moment clear in his opinion, that Mr. Haſtings has miſtaken the ſenſe of the Act? But for argument's

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ſake, I will for the preſent ſuppoſe he has miſtaken the interpretation of the clauſe; but then I muſt tell his Lordſhip, that all writers upon penal laws agree in this, that every penal Statute ought to be expreſſed in the moſt clear and intelligible language, and that to puniſh for the breach of ſuch as convey an obvious meaning very different from the real and latent meaning, would be to lay ſnares for innocence, and to puniſh the ſubjects for the offences of the legiſlators. The uſe of puniſhment is to prevent the commiſſion of future offences; but if you puniſh 50 men for miſunderſtanding an obſcure clauſe in a penal Statute, your examples will be of no uſe, for they never can aſſiſt the underſtandings of men in interpreting the next obſcure Statute that may fall in their way.

Lord Mulgrave muſt have drawn his argument from having heard it ſaid, that ignorance is no excuſe in criminal caſes with a Court of Law. It is very true ignorance is inadmiſſible, but why is it ſo? The reaſon is, that if ignorance were received as an excuſe, it would be often pleaded, and in a great meaſure defeat the purpoſe of the law. It is undoubtedly a great evil to puniſh any man for a poſitive crime, unleſs he knew before the commiſſion of it that it was made criminal by ſome Act of Parliament; but it would be a ſtill greater evil to let the offence go unpuniſhed, becauſe it would be an encouragement to others, who would plead ignorance alſo, and defeat the operation of law in every inſtance. The law goes upon general principles, and makes

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choice of the leſſer evil. But that does not apply to impeachments, which go upon partial principles, and not general ones. The nature and uſe of impeachment is to puniſh ſuch offences as the common or ſtatute law will not reach. It is to preſerve the Conſtitution ſafe from thoſe whoſe high offices and ſtations might enable them to injure it, without being amenable to common law proceedings. A Stateſman may do his country a thouſand miſchiefs, without being expoſed to danger from any Statute whatever. The Houſe of Commons therefore, which may be conſidered as the repreſentatives of the people, and conſequently guardians of their own rights and welfare, have a right to reſent and proſecute any offence committed againſt the State or Nation at large. In order to eſtabliſh ſtate criminality, it is neceſſary to ſhew that the people are injured, or likely to be injured. All public proſecutions are are founded upon this principle. I believe were we to go through the Hiſtory of impeachments, we ſhould find that they were undertaken to puniſh crimes which might ſome way or other hurt the public.

Now let us examine how the miſunderſtanding of this Act of Parliament can poſſibly affect the people of England in ſuch a manner as to induce them to demand vindictive juſtice for it at the bar of the Houſe of Peers. An Act of Parliament is made profeſſedly, with an intention to reſtrain the Company's ſervants from taking preſents from the Indians; but by the looſe manner in which it was penned, it becomes

comes a matter of doubt, whether the prohibition does not extend to the Company as well as to their ſervants. In the mean time, before this doubt was ſuggeſted, the Company's chief ſervant, in time of actual neceſſity, receives 2 or 300,000l. in preſents from the natives for the uſe his maſters.

This is the true ſtate of the caſe, and I muſt ſay, and I believe every impartial man will agree with me, that if the preſervation of the Company's territories in India be of advantage to the public, the people of England are not injured by Mr. Haſtings's receiving preſents for the uſe of the Company and the defence of their territories. How then muſt it ſtrike every man of reflection, when he ſees the people of England riſe up againſt Mr. Haſtings, and tell the Lords, that we demand juſtice againſt the man for miſtaking a ſtatute, at the ſame time we acknowledge that his intention was to ſerve us, and that he did moſt eſſentially ſerve us thereby? One might here aſk the people—Is this man the enemy of his country? No; He is the friend of his country. His very miſtakes were our ſalvation. But I hitherto have underſtood, that thoſe who demand juſtice againſt an offender, always do it under an idea that they are injured or likely to be injured by ſome act or other; but in this inſtance, you are neither injured nor likely to be injured. Why then do you demand the infliction of puniſhment? The only anſwer that could be given by the people is, that owing to the obſcurity of the clauſe, he miſunderſtood the prohibition of our legiſlature, and therefore we demand that the

criminal may be puniſhed for a crime he never intended to commit.

This is a plain ſtatement, as far as regards receiving preſents for the uſe of the Company; and I am firmly perſuaded, that no diſintereſted man in this kingdom would wiſh to ſee a Governor General called to account for ſuch an offence. It is true, if any informer had ſued Mr. Haſtings within the limited time, for the penalty of double the value, as ſtated in the clauſe, and if the Court had been of opinion, that the words of the Act excluded the receiving preſents for the uſe of the Company, the plaintiff muſt have recovered. But the reaſon is, that the Judges have no diſcretionary power to refuſe judgement upon a penal ſtatute, when demanded, however much they may feel for the proſecuted party. But the caſe is widely different with the member of Parliament, who is called upon to vote for or againſt an impeachment for the breach of a penal ſtatute. The member has a court of conſcience in his own boſom, and can put to himſelf this queſtion:—Who is moſt in fault, the perſon who pens an obſcure ſentence, or the perſon who miſunderſtands it?—I would aſk Lord Mulgrave if there can be two anſwers given to that queſtion. And I would beg of him to conſider the diſtinction between the Judge who is bound to inforce a penal ſtatute, according to the letter, without adverting to the ſpirit, and the proſecutor, who has the liberty of conſcience to enjoin or reſtrain the proſecution. Had Mr. Haſtings ſaid, I did not know of, or I for-

forgot the Act of Parliament, it would have been, as his Lordſhip obſerved, a *ſhabby excuſe*; but when we conſider that the true explication of an obſcure clauſe can only be obtained from the opinion of the Judges, or a new declaratory law, we muſt allow, that to a perſon in India, the means of underſtanding and knowledge were not within his reach; and that ignorance of a fault was an unavoidable, and conſequently a pardonable one. I have beſtowed more pains in examining this queſtion than you perhaps may think neceſſary; but it is owing to a wiſh I entertain of preventing an unfair impreſſion being made by the opinion of Lord Mulgrave, who in moſt caſes is certainly a very reſpectable authority; but in this I differ with him *toto cælo*. You are, however, to obſerve, that what I have ſaid, has nothing to do with the impeachment in this article, when it is put on the other ground; namely, that Mr. Haſtings actually received the preſents for his own uſe, and gave them up through fear of detection. If the Managers can eſtabliſh that clearly and demonſtratively, I ſuppoſe there will not be two opinions as to the guilt.

Much has been ſaid on the length of the preſent trial. It certainly is unprecedented in the annals of England. It is, perhaps, the firſt inſtance of the kind that ever happened in the known world. Sir Walter Raleigh's was a hard caſe; but he was not longer under trial than others had been before him. But in all diſeaſes, the firſt thing to be conſidered is, the nature of the malady—whether it admits of a

remedy, and whether the remedy is not worſe than the diſeaſe? Mr. Haſtings's friends ſay, that the articles are numerous; that the items or allegations are nearly 2000; that the expence is enormous, beyond the power of any fortune to ſupport; that two ſeſſions are already paſſed away in hearing the evidence in proof of two articles only, and part of another; that, by analogy, it will take ſixteen years to go through the proſecution; and that two or three years more may be reaſonably allowed for the defence and replication. Hence they ſay, it is evident, that ſhould Mr. Haſtings's life be protracted to ſeventy, he cannot ſee the end of the trial. They enumerate many more hardſhips than what I have mentioned; but as you muſt have ſeen them ſtated in the newſpapers, I ſhall paſs them by. But after all, I muſt confeſs, that it is very difficult, in the preſent ſtage of the buſineſs, to point out a remedy. It is an evil or injury beyond the reach of the law to redreſs. Our anceſtors, in framing the conſtitution, have taken every poſſible precaution to guard againſt the overbearing power of any ſingle branch of the legiſlature; but ſhould they all unite, or one part paſſively obſerve the oppreſſion of an individual by another, there is no remedy; nor is it in human wiſdom to provide one.

The Commons have, by the conſtitution, an undoubted right to impeach whomever, and for whatever they pleaſe. It is fit they ſhould have it; for, as I have ſaid before, every ſtate muſt have a diſcretionary power to puniſh undefined offences, to pro-

vide againſt future evils, and to remedy thoſe which have happened. It muſt have a power of puniſhing by a kind of *ex poſt facto law*; but then it certainly ought to be exerted againſt thoſe actions only which are in their own nature criminal, or in ſome way or other prejudicial to the ſtate. And whilſt the diſcretionary power is confined to this, there can be no harm in it; for there is a kind of obligation on every public man to act for the benefit of the ſtate that employs him: a failure of duty is juſtly puniſhable. But it is alſo incumbent on thoſe to whom the people have delegated the power of puniſhing, to uſe it with moderation, and not exceed the bounds of natural juſtice. The thing complained of in this inſtance is, that the Commons, by voting ſuch a number of articles, and loading them with ſo many allegations, have inflicted a puniſhment more ſevere than would poſſibly have been ſentenced by the Lords, had the defendant pleaded guilty at once. Certainly, as the event turns out, it would have been more prudent in Mr. Haſtings to have pleaded guilty, when firſt called upon to anſwer; but who then could foreſee the procraſtination which has ſince happened. As matters now ſtand, Mr. Haſtings has nothing to hope, but from the mercy of the Lords, and the Miniſtry. It is in the power of the latter to ſhorten or lengthen the ſeſſion of Parliament (I mean with the conſent of the King) and it is in the power of the former to appoint the days of ſitting, and to make them more numerous than heretofore.

This appears to me as the only way of relieving Mr. Haſtings; and if the Lords will not take this part, there is no remedy upon earth. It is true, the Parliament muſt of courſe, in a certain ſpace of time, be diſſolved; but as many of the ſame members may probably be returned again, the impeachment may of courſe be renewed, and continue on for another ſeſſion. It will never be in the power of any other branch of the legiſlature to ſay to the Commons, We will reſtrict you as to the number of articles you are to exhibit againſt the priſoner, or to fix the *ne plus ultra* as to matter or time. The Commons are in poſſeſſion of a valuable and neceſſary privilege, and they ought not to part with it, nor ſuffer it to be entrenched on in the ſlighteſt degree. They have the ſame power over a ſtate officer, as a rich man has over a poor neighbour. The latter may bring action after action againſt the poor man, till he has ruined him by expences; and though the poor man may have every verdict in his favour, yet the courts of juſtice can never prevent the rich man from renewing the old ſuit, or ſtriking out ſome other equally ruinous and oppreſſive. Theſe are evils to which all claſſes of people are liable; and it is impoſſible to contrive laws to prevent them totally. I have heard many diſintereſted people exclaim, not againſt this privilege of the Houſe of Commons, but againſt the exerciſe of it to too great an extent againſt an individual. I have heard it repeatedly affirmed, and Major Scott has more than once ſaid it in the Houſe of Commons, as well as in his

his publications, that many of the articles paſſed with little examination; in ſhort, that they were voted in the lump. Suppoſing this to be true, and I have never yet heard it contradicted, it amounted to little leſs than an impeachment for life; and I have heard it called the giving of him up as a victim to the Managers.

The former part of the laſt ſentence I firmly believe, and the latter I have heard ſtrongly maintained in private companies by thoſe who were not the adherents of Mr. Haſtings. This is a length to which I did not go, for I conſider the greater part of the Houſe as deceived in their expectations. They had not made themſelves ſufficiently acquainted with the ſubject to know what an immenſe maſs of evidence, written and oral, muſt be brought to ſuſtain ſuch a number of allegations. Neither did they foreſee, that their Managers would take four or five days to open half an article, and as many more to ſum up the evidence upon it. I even doubt much if Mr. Burke himſelf foreſaw the extent of the trial; yet if any one had the means of foreknowledge, he certainly was the man. He knew, that with the cloſeſt application, it coſt him ſome years to underſtand India buſineſs; and it was but reaſonable to ſuppoſe, that it would coſt him as many, if not more, to make the Lords underſtand it. I ſay more years, becauſe the Lords would apply only a few hours in a day, and but a few days in the year, when compared with the time ſpent in the acquiſition of knowledge by Mr. Burke. Add to which, much

delay

delay might naturally be expected from the Counsel objecting to evidence. Hence one may reasonably conclude, that Mr. Burke knew at the time, that he had carved out work for many years.

I have heard the procrastination on the part of a Chief Magistrate imputed to interested motives; but I am unwilling to suspect him of that, without stronger grounds. But certain it is, that much time has been very unnecessarily consumed in long Speeches and vehement Declamation. This kind of Oratory serves very well to amuse the Audience in the Gallery, who occasionally attend as a matter of amusement; but to the Lords, who attend as a matter of duty, it must be irksome and fatiguing in the extreme. At the same time it is impossible to stop or prevent these repetitions, if the Managers are determined to persevere in the use of them: they claim the privilege of being heard, and it cannot be denied them.

The more I consider the situation of the Judges, the Accusers, and the Defendant, the more difficulties present themselves to my mind. The Commons have voted and pledged themselves to substantiate a mass of allegations that must employ them for many sessions; and they cannot with honour withdraw them: they cannot hasten their Managers without giving them offence, and perhaps provoke them to resignation; and the Managers, if we may judge from the length of their Speeches, &c. shew very little desire to bring the Trial to conclusion.

There is at this time an information filed against a pub-

a public paper, for calling this proſecution a ſhameful buſineſs. It is undoubtedly a very improper term to be applied to any Act of either branch of our Legiſlature; but it muſt be admitted by every impartial man in the kingdom, that the delay is and muſt be extremely oppreſſive; and it were much to be wiſhed, that both Houſes of Parliament would unite in bringing the buſineſs to a ſpeedy concluſion. The Lords might contribute their ſhare by ſitting often, and with as little interruption as poſſible; and the Commons might contribute their ſhare, by adviſing their Managers to make uſe of as little delay as poſſible: without the concurrence of both Houſes in this joint endeavour, the proſpect for the Defendant is dreary indeed; and it would be an act of mercy to end the Trial by a Bill of Attainder at once.

The friends of Mr. Haſtings complain loudly againſt the Proſecutors for withholding, or rather for not bringing forward the evidence of certain Gentlemen, which would have made in favour of the Defendant. I hardly know what to ſay upon this point, nor do I well underſtand the practice of other courts in like caſes. I have indeed heard it ſaid, that Lawyers hold it diſhonourable in a Counſel for the Proſecution to withhold evidence, which in the courſe of his inquiries he has found favourable to the perſon accuſed. Whether this be Law, or only a point of honour, I do not know; but in reading over the Speeches of the Chief Managers, I took notice that they bound themſelves to the obſervance of more candour than is uſually obſerved by

by Advocates in ordinary Proſecutions. They ſaid they would take no advantage in aggravating the Charge, nor ſtate any thing againſt him, which they could not and would not eſtabliſh againſt him by competent evidence. They conſidered themſelves as the Repreſentatives of the Commons of Great Britain, as the Advocates for Truth, and not as Advocates bound to maintain a Criminal Proſecution againſt it. After ſuch a declaration from Mr. Burke, one would not have expected the ſtory of Deby Sing; a ſtory ſo artfully introduced as to do the Defendant more harm than all the twenty Articles put together, in the opinion of mankind; and at the ſame time to preclude him from the benefit of calling evidence to refute it. Whether this really was an ingenious contrivance of a Chief Manager, or whether he introduced it without foreſeeing the effect, I know not; but there never were two things more at variance with each other than this narrative and the declarations I have juſt quoted from their Speeches. I do not find fault with Mr. Burke's bringing this hiſtory before the Bar; but it is the manner in which he did it that I condemn. He beſpoke and certainly gained credit by his profeſſions and promiſe of candour, and then introduced criminal matter, which he knew muſt make a very deep impreſſion; taking care at the ſame time to leave the Accuſed without the means of effacing it. But this is not all; for in the very narrative of which I am ſpeaking, the evidence of Mr. Anderſon was not brought forward, which would, if ſtated, have totally deſtroyed all the effect wiſhed to be

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produced. Were I the Advocate of Mr. Haſtings, and were I to write with the intention of expoſing the contradictions in the ſpeeches, declarations, and doctrine of the Managers, I could expoſe a picture that would be very unpleaſing to them, and diſguſting to the public.

The great evil which in my opinion is moſt likely to affect Mr. Haſtings, by the Managers neglecting to call certain Gentlemen as evidence, is death. Some are already dead, and many more will be ſo by the common chance of mortality, long before Mr. Haſtings will have an opportunity of calling them. This alſo is a misfortune for which I ſee no remedy, but in the honour and juſtice of the Houſe of Commons.

There is another thing much complained of by Mr. Haſtings's friends: it is the ſuperiority which the Managers claim over the Defendant's Counſel. —They ſay they are cloathed in the robes of Magiſtracy.—If this be the law of the land, if they really were ſo cloathed, a trial would be a mere farce or mockery. It is the part of a Magiſtrate to command, and not ſolicit. They might in their Magiſterial capacity give the law, and not receive it. The Gentleman who threw out this doctrine, would be very unwilling to allow it, ſhould the day ever come when he might ſee himſelf or his friend at the Bar in Weſtminſter-Hall. He would again become the advocate for the rights of the people, againſt tyranny and oppreſſion. I look upon the

broaching of this doctrine in Weſtminſter-Hall as done at random, or by way of experiment, ſomething like the Prince's right to the Regency, ſet up by Mr. Fox and Lord Loughborough.

I ſhall conclude with making a few general obſervations upon the probable injury which individuals, who incur the diſpleaſure of a Houſe of Commons, may hereafter receive from this precedent. Every body knows, that all popular aſſemblies are very liable to divide into parties; that oppoſition excites animoſity, and that men become more and more heated by their own declamations, as well as thoſe of others. This proſecution has pointed out the way, and furniſhed a precedent for oppreſſing an object of reſentment without a ſentence or judgement. A Houſe of Commons alone can do more towards puniſhing an individual, whether innocent or guilty, in many caſes, than could be beyond the ſevereſt ſentence. It requires nothing more than the voting of an immenſe maſs of allegations, to fix the accuſed to the Bar for the remainder of his life. This certainly is the firſt inſtance of the kind; but it may become general. Every accuſer wiſhes to take all advantages he can, if we may judge from practice and not profeſſions. And as future accuſers muſt ſee the advantages obtained by management and delay in this trial, they moſt undoubtedly will avail themſelves of the ſame, or ſimilar means of procraſtination. Should this evil become general, it muſt and will, like others, when arrived

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to a certain height, redreſs itſelf; that is, a law muſt be made to limit the length of the proceedings. It may hereafter be found full as neceſſary to guard againſt the oppreſſions of repreſentatives, as againſt the throne.

Thus far was written and publiſhed previous to the laſt Seſſion of the laſt Parliament. What follows was written after the Diſſolution of Parliament, and contains an account of what paſſed, reſpecting the Trial of Mr. Haſtings, during the laſt Seſſion.

THE laſt Seſſion ended with the cloſe of the Evidence and ſummary thereof on the 3d Article. I ſhall now, in order to render as complete as poſſible what I formerly wrote on this ſubject, give a clear and conciſe ſtatement of the remaining part of the Article concerning preſents, and that the reader may at one view ſee the full extent of the charge, I ſhall ſubjoin a liſt of the Donors and their donations.

	Rupees.
Rajah Chyte Sing - - - - - - -	200,000
Rajahs Cullian Sing and Kelloran -	200,000
Nundolol - - - - - - - - -	50,000
Rajah of Nuddeah - - - - - - -	150,000
Rajah of Dinagepore - - - - - -	200,000
Nabob Vizier - - - - - - -	10,00,000
Rajah Nobkeſſen - - - - - - -	300,000

Theſe were originally diſtinguiſhed by Mr. Burke by the appellation of *avowed preſents*, as thoſe of which I treated laſt year were by that of *concealed preſents*. To this liſt was ſubjoined by the Managers in the proſecution of this part of the Charge an allegation borrowed from the 12th Article of Charge which ſtates the offer of another preſent of ten lacks which were not received by Mr. Haſtings.

I ſhall begin with the firſt preſent, namely, that from Rajah Chyte Sing; it was offered to Mr. Haſtings through his Agent Sadanund, the declared intention of which was to atone for the neglect the Rajah had been guilty of in not paying the five lacks demanded of him by our Government, in aid of carrying on the war the two preceding years. This demand on one ſide, and neglect of payment on the other, were the cauſe of the Rajah's expulſion from his Zemindary, as was fully ſhown when I treated of the 1ſt Article. When the offer of the two lacks was firſt made, Mr. Haſtings refuſed it, but in a ſhort time after he ſent for Sadanund and agreed to accept it. Mr. Larkins the Accountant General was privy to the tranſaction, and received the money. By his letter to the Chairman of the Court of Directors, it appears that Mr. Haſtings at the time of receiving the money, declared his intention to apply the ſame to the uſe of the Company, in removing Mr. Francis's objection to the want of a fund for defraying the expences of Col. Camac's Detachment. It is here neceſſary to be obſerved

that

that Col. Camac's Detachment was intended to cauſe a diverſion of the Mharatta forces from the Weſt ſide of India, and to enable General Goddard to carry on his plan of operations with more effect in the vicinity of Gazeret. Mr. Francis objected to the ſending of a Detachment under the command of Col. Camac on account of the increaſe of expence, and Mr. Haſtings in order to cheat him into conſent, propoſed paying the extra charges out of his own purſe, at the ſame time intending to apply the abovementioned two lacks to that purpoſe. If there were any thing wrong in the attempt to impoſe upon Mr. Francis, (which by the bye did not ſucceed) it was owing to that ſtrong oppoſition which the latter almoſt always made to the meaſures propoſed by the Governor General. Mr. Haſtings, however, did not conceal the receipt of the preſent from the Court of Directors, but in his firſt letter on that ſubject he was not explicit enough to ſatisfy their curioſity. They demanded a further explanation, which was given to them by Mr. Haſtings and Mr. Larkins the Accountant General.

This Article concerning preſents, as the Managers have now brought it forward, divides itſelf into many branches, and includes alſo the letting of lands, for they ſay that Kelloran and Cullian Sing, two Rajahs of the Province of Behar, made preſents to the amount of four lacks of Rupees, on conſideration of the leaſes which were granted them. They argued this point with great ingenuity, for either *the lands were let too cheap or they were not*; *if they were let*

let too cheap, why then, they tell us, *that the Company's Intereſt was ſacrificed for a Bribe to the Governor General; and if they were not let too cheap, why then the taking of the four lacks of Rupees was an act of extortion upon the diſtreſſed Rajahs.* This at firſt ſight appears to be concluſive reaſoning, but the ſtrength of it is utterly deſtroyed, when we conſider that it is the general practice of renters in that country to make preſents upon the granting or renewing of leaſes. It is highly probable that ſums of nearly the ſame amount would have gone into ſome other channel had the lands been let by or to any other perſons. Add to this, a renter in India would pay a groſs ſum under any other denomination, much rather than under that of rent. An increaſe of rent forms a precedent and tends to open the eyes of Government to the true value of the lands, a ſpecies of knowledge which every renter muſt from motives of ſelf-intereſt wiſh to keep from the proprietors of the ſoil. It is admitted that two lacks of Rupees were received, but it appears alſo that as ſoon as the money was received, it was carried to the public account and officially entered under the proper head. There is no ground for ſuſpecting that Mr. Haſtings intended to apply the donation to his own private purpoſe, and unleſs ſome ſuch intention could be eſtabliſhed or made, at leaſt, very probable, there can be no criminality in it, for whether the act of taking were right or wrong, it amounts to nothing more than an error of judgement.

Another

Another preſent, received upon a different footing, came from the Rajah of Dinagepore. It amounted nominally to four lacks, but two only were realized. It was paid under the denomination of Peſhcuſh or fine upon the inveſtiture of the young Rajah after the death of his father. Great exertions were made to connect this preſent with the letting of the lands in the diſtricts of Dinagepore and Rungpore, but the dates repel this attempt in an inſtant. The party that made the preſent, and the perſon that rented the lands, were very different: add to which, the preſent was made one year before the alteration took place in the Collection of the Revenue. There was alſo another preſent received to the amount of a lack and a half of Rupees from the Rajah of Nuddeah.

All theſe preſents were carried to the public account, but the manner in which ſome of them were paid into the Treaſury, was ſuch as to excite ſuſpicion that Mr. Haſtings intended to have kept them for his own uſe. The fact was, that no caſh could be lodged in the public treaſury without appearing in the Treaſurer's account under ſome head or other. Mr. Haſtings, therefore, applied to the Board for Bonds to be made out in his own name for their amount. The Bonds were granted accordingly, but Mr. Haſtings never received either principal or intereſt upon them. On the contrary, he endorſed on them a declaration that neither principal nor intereſt was his own, but that both belonged to the Company. The date of the Endorſement did not

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agree with the Account which Mr. Haſtings had given thereof in his defence to the Houſe of Commons; for he there ſays, that he endorſed the ſaid Bonds and left them with Mr. Larkins to deliver up in caſe any accident happened to himſelf, much about the time of his going on a viſit to the upper Province in 1781. But when a reference was lately made to the Bonds themſelves, it appeared that they were not endorſed till the 29th of May, 1782.

The uſe which the Managers made of this miſtake, was to excite a ſuſpicion that Mr. Haſtings never would have given up the Bonds at all, had he not received intelligence of an inquiry into India affairs then carrying on in a ſelect Committee of the Houſe of Commons.

I cannot find, however, that any proof was brought that made it appear even probable that Mr. Haſtings had received any ſuch information.

There was one circumſtance which proved rather unfortunate to him in this tranſaction. Mr. Haſtings had, in November 1780, written home an account of the preſent he received from Chyte Sing, and he had alſo adviſed the Directors in a letter dated the 20th of January, 1782, of his having received 10 lacks of Rupees from the Nabob of Oude, and in the May following, he with the aſſiſtance of Mr. Larkins made out an Account of all the preſents he had received up to that period. The Account was incloſed in a letter written by Mr. Larkins on the 22d of May, 1782, and intended to have been diſpatched by the Lively Packet, then

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in conſtant expectation of ſailing for Europe. It ſo happened that the Lively was detained till the next December, and in the interim between May and December, an account had reached India of the inquiry by the Houſe of Commons as abovementioned. To prevent any imputation or ſuſpicion of the diſcovery having been made in conſequence of that intelligence, the letter was opened, and an affidavit was made by Mr. Larkins, ſetting forth that the Account was made out and the letter which incloſed it written on the 22d of May, and that it had remained ſealed till the 16th of December, and then opened for the expreſs purpoſe of being accompanied by the affidavit. There was no way of criminating Mr. Haſtings in this tranſaction without involving Mr. Larkins in the guilt of perjury; and there were reflections caſt upon that gentleman in the Eleventh Report of the Select Committee, which wounded his feelings very ſeverely. Mr. Larkins, however, has this conſolation, that no uncandid inſinuation can injure his honour in the opinion of thoſe who know him. All who knew him in India, either in perſon or reputation, will agree that he was one of the laſt men in Bengal to be ſelected for the purpoſes of perjury.

It is ſomewhat remarkable, that Mr. Larkins is almoſt the only man in the ſervice of whom all Adminiſtrations have ſpoken in the higheſt terms of approbation. Lord Cornwallis has ſaid of him all that can be ſaid of human nature; he deſcribes him

as poſſeſſing *acknowledged probity, great ability, and unwearied application.* Such a man as this may miſtake, but cannot commit a perjury.

I mentioned above that Mr. Haſtings adviſed the Directors of his having accepted a preſent of ten lacks of Rupees from the Nabob of Oude, which was carried to the Company's Account. He did at the ſame time ſolicit the Company's permiſſion to keep the ſaid ſum for his own uſe. His requeſt was not granted. The Managers made the receipt of the money a matter of criminality, and the aſking permiſſion to keep it became matter of aggravation. There was alſo another preſent received of half a lack of Rupees from Nundolol, but there was not much ſtreſs laid upon the receipt of that, ſo I ſhall paſs over it without further animadverſion.

The laſt preſent was from Nobkiſſen. It amounted to three lacks of Rupees, and was received in the year 1783. Mr. Haſtings, it ſeems, at firſt propoſed borrowing the money for his own neceſſities, but at the time of receiving it, Nobkiſſen begged his acceptance of it. Mr. Haſtings at that inſtant neither accepted nor refuſed, but after a time he agreed to take the money as a gift. He informed the Directors of what he had done, and propoſed his keeping it in payment of certain contingent charges due to himſelf from the Company. The propoſition was not rejected, and Mr. Haſtings gave in his contingent Bills, and has kept the money in diſcharge of his juſt debt.

I call

I call it a *juſt debt*, becauſe I cannot find that Mr. Haſtings's claim on the Company for the contingent Charges he made out has ever been queſtioned by any of his greateſt enemies, except Mr. Burke.

The only objection was to the mode he adopted for the payment of his own demand. It muſt however be remembered, that the Company's finances were very low in 1783, and it is probable Mr. Haſtings thought the Directors would have leſs objection to his claim, when it was to be ſatisfied without adding to the weight of their then diſtreſſes.

The grand points which the Managers laboured to eſtabliſh during the laſt Seſſion, were theſe, namely, that Mr. Haſtings received all theſe preſents for himſelf originally, and that fear of detection and future puniſhment was his only motive for giving them up to the public treaſury, and that the Company's lands were not let ſo advantageouſly as they would have been, had not the Governor General been under the influence of bribery and corruption. With reſpect to the firſt of theſe two points, I muſt recal to the reader's mind what I have repeatedly remarked during the courſe of this Elucidation; viz. that the perpetual diſſentions in Council, and the almoſt unremitted oppoſition made to the meaſures propoſed by the Governor General, induced him to do many things which he would not have done, had he been as free and unſhackled as his ſucceſſor Lord Cornwallis has ſince been.

If Mr. Haſtings received ſums of money without the knowledge of his colleagues, he alſo expended

ſums of money for the public ſervice without their participation or conſent. Such was his ſending to Chimnagee Booſla three lacks of Rupees, by way of purchaſing an uninterrupted paſſage for our army through Catac to the Coaſt.

The very money which he received in a preſent from Dinagepore and Nuddeah, was employed for this purpoſe. It was at that time very uncertain whether Mr. Haſtings could have perſuaded his colleagues to ſuch a meaſure or not. But it is very certain that had Chimnagee Booſla been induced either by reſentment or diſtreſs to plunder the lower provinces, and to harraſs Col. Pearce's army on their way to Madraſs, the conſequences would have been felt very ſeverely by all the Company's Settlements in India, and particularly by Madras, which might have been loſt to the Engliſh for ever.

I muſt confeſs that the ſeveral accounts given by Mr. Haſtings and Mr. Larkins of the time of taking the ſeveral preſents, and of various other circumſtances relative thereto, do not agree with each other ſo well as might be reaſonably expected. By a paragraph in one of Mr. Larkins's letters, it ſeems that Mr. Haſtings had no written memorandums whatever, and the beſt account that Mr. Larkins could give, was collected from Perſian and Bengally papers, tranſlated by Menſheys and Sircars. As Mr. Haſtings never conſidered the money as his own, the ſtrongeſt impreſſion made on his mind was that of being able to render ſervice to his country by means which fortune had thrown into his way, and which

which it was not in the power of his colleagues to thwart or to oppoſe. It is highly probable that at the time of immediate danger to the ſtate, he expected his countrymen would hold that meritorious, which now to his great diſappointment and mortification he finds they hold criminal. The whole ſtream of his attention was in the years 1780 and 1781, turned to the preſervation of the country over which he preſided. It is not therefore to be wondered at, if in the diverſity of objects that then occupied his mind, many of the trivial circumſtances reſpecting the receipt of a few lacks of Rupees have eſcaped his recollection. To this and this only we muſt impute the want of accuracy in the accounts he has given of theſe tranſactions. And indeed I muſt ſay, that if ever Mr. Haſtings intended to convert the preſents he received from the natives to his own uſe, the means he made uſe of to conceal the receipt of them, were the moſt injudicious that could poſſibly be deviſed. Add to this, all the Evidence which the Managers ever brought or could bring on the ſubject was furniſhed by himſelf. Nothing was ever diſcovered that he did not voluntarily diſcover.

It was entirely at his own requeſt that the Bonds were inquired for at the India Houſe, and afterwards ſent home by Mr. Larkins with the permiſſion of Lord Cornwallis. Every application was his own. A man muſt be mad who knowingly and intentionally furniſhes Evidence againſt himſelf. The account which Mr. Haſtings gave of the preſents he received, both

both in his letter from Cheltenham and in his Defence before the Houſe of Commons, was from memory, and his recollections not being very perfect, he certainly blended together facts which happened at different periods. Such was his leaving the Bonds with Mr. Larkins in 1781 to deliver up in caſe of his death and his endorſing them the following year. Both facts he recollected, but not the time when they happened. Had Mr. Haſtings foreſeen that ſuch rigid advantage would be taken of every little ſlip he might happen to make, he would doubtleſs have taken the ſame caution as a prudent tradeſman does, who will give you no account till he has conſulted his books. Few men who are giving Evidence in a Court of Juſtice will ever take upon them to make ſtatements of accounts from memory, when the articles and relative circumſtances have been committed to writing.

Were Mr. Haſtings to inſiſt on the common rule of Evidence, which is, that where a man's confeſſion is received as teſtimony againſt himſelf, the whole confeſſion ſhall be received as truth or no part of it at all. If this rule were to obtain in Mr. Haſtings's caſe, the Managers would be under the neceſſity of believing, that whether the act was legally right or wrong, the intention was good and meritorious.

The ſecond grand point which the Managers laboured to eſtabliſh, was that Mr. Haſtings aboliſhed the Provincial Revenue Councils and inſtituted a Committee of Revenue at Calcutta, with a view

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of increaſing his own power and authority, and of gratifying his own avarice and ambition.

To effect this, they read letters of Mr. Haſtings to the Court of Directors, in which the then mode of collecting the revenues was commended, and a propoſal made for rendering it perpetual by Act of Parliament. By the doing of this, they made it appear that Mr. Haſtings had been rather too much in a hurry in paſſing judgement upon a meaſure not fully tried and examined. But ſurely there can be nothing criminal in a man's changing his opinion after conviction founded on experience. Who is there in this world that has not frequently changed his opinion upon one and the ſame ſubject? I might here ſay, that the accuſers of Mr. Haſtings are the laſt men in the world who ſhould impute criminality to the fluctuation of opinion. It is probable, that whenever Mr. Haſtings ſhall have it in his power to explain the motives of his conduct on this buſineſs, he may ſay, that in 1775 he felt the advantage of Provincial Councils; for whilſt the Members of the Supreme Council were quarrelling upon every topic that came before them, the buſineſs of the Revenue went on without interruption, becauſe it was conducted by other men; had it been tranſacted in detail by the Governor General and Council, the confuſion occaſioned by their diſſentions would have ſtopped the courſe or at leaſt have embarraſſed the order of Collection. He may ſay alſo, that in 1773, he propoſed the very plan for collecting the Revenues which he carried into effect in 1781, that he

he was over-ruled by his colleagues at the firſt period, and that in the interval between the two, he gave a preference to Provincial Councils, for the reaſons above mentioned. But when the death of Gen. Clavering and Col. Monſon had diminiſhed the evils of oppoſition and diſſention, he then ſaw the inconveniences of Provincial Councils in a ſtronger light than he had done whilſt they were obſcured by evils of greater magnitude. In other and fewer words he may ſay, of two evils, I chuſe the leaſt. The rock upon which Mr. Haſtings's judgement is ſplit lies here. In recommending to the Miniſtry to perpetuate Provincial Councils, he gave way to his feelings, and ſuppoſed that the then oppoſition and diſagreement in the Supreme Council would laſt for ever, without conſidering that all evils rectify themſelves by their own violence, and the ſtronger the paroxyſm, the nearer the termination of the diſeaſe.

Much ſtreſs was laid by Mr. Fox upon the employment of Goonga Govind Sing. This man's character has been variouſly repreſented. Mr. Burke calls him a *bold atrocious villain, at the ſound of whoſe name all India grows pale.* This muſt have been meant as a beautiful figure in ſpeech, and not as a literal truth, for certain it is, that not a hundredth part of the inhabitants of India ever heard of his name. Mr. Moore and Mr. Young gave him a bad character alſo. Mr. Anderſon ſpoke favourably of him, and Mr. Shore thought as well of *him* as he did of black men in general, adding, that he

he himſelf had ſelected the Son of Goonga Govind Sing for an appointment of great truſt and importance. It does not appear that any charge has ever been ſubſtantiated againſt Goonga Govind Sing, and though he is no longer in a public office or employ, he reſides in perfect ſecurity in Calcutta. There was an attempt made to criminate him ſoon after Mr. Haſtings left the chair, but it failed.

Mr. Fox ſeemed to think it criminal in Mr. Haſtings to employ a man againſt whom an accuſation had been brought though not ſubſtantiated. Mr. Fox ſurely would not have held this doctrine, had he reflected upon the conſequence of admitting it in all caſes, neither has it been the practice in any ſtate to diſqualify a man for public employ upon no better ground than that he has been accuſed. Lord Danby was impeached in the reign of Charles II. diſcharged without a trial in the reign of his Succeſſor, was appointed to high offices by King William, who created him a Duke, after which he was again impeached and again employed. Lords Somers, Portland, Orford, and Halifax, were impeached by the Commons in the reign of Mary and William, and held the higheſt offices in the ſtate under Queen Anne. The laſt Parliament but one paſſed ſevere votes againſt the Marquis of Buckingham and Mr. Pitt, and yet they are again employed, and I believe few people think the worſe of them for any thing contained in thoſe votes of cenſure. Sir Robert Walpole was expelled the Houſe of Commons for notorious corruption, and

was afterwards for twenty years the leading Miniſter of this kingdom. The Duke of Marlborough and Lord Townſhend were accuſed and condemned by the Houſe of Commons, and yet they both enjoyed high offices under George I.

An accuſation, ſomewhat ſimilar to that brought againſt Goonga Govind Sing, was by the City of London urged againſt the late Lord Holland. Mr. Fox was himſelf turned out of office in rather an abrupt manner, as he himſelf deſcribed it, and if the reaſon I have heard aſſigned for his being ſo turned out be true, it would operate as forcibly againſt his being re-inſtated, as any accuſation could againſt Goonga Govind Sing. It were needleſs to ſay any more upon this point of Criminality, and I have no doubt but Mr. Fox upon re-conſideration would for his own ſake abandon it.

Another method taken by the Managers to ſhow that Mr. Haſtings muſt have acted corruptly was, the ſtatement of the Revenue Accounts for ſome years previous to, and ſome years ſubſequent to the abolition of Provincial Councils. But this kind of proof ſeems to make very little in their favour. The amount of the ſums received into the treaſury was liable to variation both before and after the change of ſyſtem; but it appears from the account given in Evidence that the product of the three laſt years next after the alteration exceeded that of the three immediately preceding by about thirteen lacks of Rupees. This circumſtance, together with the continuation of the new ſyſtem under Lord Cornwallis,

wallis, is a full refutation of all that can be ſaid againſt the abolition of Revenue Councils on the ſcore of profit and loſs. The Company certainly have not been ſufferers by the alteration.

Another mode attempted to fix criminality on Mr. Haſtings, was to ſhow that the farmers and renters were injured by it, and that the impoveriſhing of the inhabitants muſt in the end be injurious to the intereſt of the Company. This effect has certainly not been produced in the courſe of eight years which have ſucceeded that arrangement, if we are to credit the Accounts ſent home by Lord Cornwallis as detailed to us by Mr. Dundas in his India Budget. There is certainly much apparent contradiction in the votes of the Houſe of Commons on this article. With reſpect to Mr. Haſtings, they voted that his adminiſtration of the Revenue and the ſyſtem he adopted had ruined the country, but with reſpect to Mr. Dundas's Budget, they voted the ſame country to be in a flouriſhing ſtate, holding out to the public the proſpect of an increaſing Revenue, and a large annual ſurplus. How theſe two votes can be reconciled, I know not. This much I can, however, take upon me to ſay, that the Provinces of Bengal were in the time of Mr. Haſtings's Government as well treated, and the inhabitants ſeemed to live as happy as could poſſibly be expected, when it is conſidered that India is governed, not with an eye to the proſperity of itſelf, but with an eye to the advantage of its Conquerors.

The firſt conſideration has ever been, and ever will be in all conquered countries, to raiſe ſuch Revenues as will ſuffice to keep the conquered in a ſtate of ſubjugation, and to remit an annual balance to the ſuperior ſtate.

How widely different is the ſtate of Great Britain, a kingdom which partly by trade and partly by conqueſt has drawn to itſelf immenſe wealth from near, and diſtant nations.

In the years 1778 and 1779, I was employed on a ſurvey in the hills near Ragemahl. I croſſed the country in many directions, and had various opportunities of converſing with the natives, and of obſerving the manner in which they lived. Having no European with me I was, for the ſake of ſociety, neceſſarily driven to aſſociate a good deal with the natives. At almoſt every village I came to, I had an opportunity of converſing with its chief Magiſtrate, who uſually came to ſolicit a guard to prevent the camp followers from committing depredations. I do not remember in the whole courſe of my ſurvey having heard more than one or two people complain of the Engliſh Government. In general, the villages ſeemed to be populous, and the lands round them to be well cultivated. The time which I ſpeak of was previous to the year in which the Revenue Councils were aboliſhed, but I never did hear from any perſon who had travelled through the different provinces, that they were in a ſtate leſs flouriſhing after the change of ſyſtem than they were before.

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I believe no Governor ever ſtudied the proſperity of the country over which he preſided more than Mr. Haſtings did whilſt he was Governor of Bengal. If the original plan were not his, he certainly adopted and carried into effect the ſcheme for civilizing the Mountainers who inhabit a vaſt tract of hills near the city of Ragemahl. Theſe inhabitants of the woods uſed to come down in bodies, and commit vaſt depredations upon the people who dwelt in the plains below them, and it is owing to Mr. Haſtings that theſe evils exiſt no longer. Before I left India in 1785, I ſaw the ſame people, who, whilſt I was on a ſurvey about ſix years before, were almoſt as wild and full as miſchievous as the beaſts in the foreſt, perfectly civilized and employed in preventing the robberies they uſed to commit. Theſe are not the acts of a Governor who is regardleſs of the welfare of thoſe whom he governs. It will therefore require a much ſtronger proof than any which has ever yet been adduced by the accuſers of Mr. Haſtings, to make me believe that he ever would have permitted the natives to be oppreſſed, much leſs to encourage or abet the oppreſſors.

I have now gone through the ſeveral charges againſt Mr. Haſtings, as far as the Managers have brought them into Evidence. It is true, there are many Articles more which probably would have been entered into, had not the diſſolution of Parliament put a ſtop to the proceedings. Whether the diſſolution of Parliament has put a *total* ſtop to all further proceedings without beginning *de novo*,

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is a queſtion that has been much agitated, and ſeems very difficult of deciſion. The Lawyers themſelves, who certainly ought to be the beſt qualified to ſpeak on ſuch a ſubject, ſeem as much divided in their opinions as other men. This incertitude muſt be owing to the want of ſteady precedents to guide their judgement, or perhaps to the want of leiſure to conſult them.

This diverſity of opinion reſpecting the event of the Impeachment induced me to look into thoſe few books which I had the means of peruſing on this ſubject. The caſe which occurred to me as moſt in point to the preſent buſineſs, was that of the Earl of Danby. His Lordſhip was impeached by the Commons on the 23d of Dec. 1678 of High Treaſon. A debate aroſe whether he ſhould be committed, it being the opinion of ſome Lords that, though the Commons had called his offence treaſon, it did not amount to a crime of ſuch magnitude. The majority was againſt the commitment. It was apprehended that the Commons would complain of this as a denial of juſtice, and the conſequence was a diſſolution of Parliament. A new Parliament was called, and the Impeachment was reſumed as ſoon as a diſpute between the King and Commons concerning the Election of a Speaker was ſettled. It naturally became a queſtion with the Lords, whether the Impeachment ſhould be conſidered as alive or extinct. On the 19th of March 1678-9, the Houſe came to a reſolution, of which the following is a Copy:

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Die Mercurii, 19 *Martii*, 1678-9.

"The Lords this day taking into conſideration "the Report made from the Lords Committees for "Privileges, that in purſuance of the Order in the "17th inſtant to them directed, for conſidering whe-"ther petitions of appeal which were preſented to "this Houſe in *the laſt Parliament*, be ſtill in force "to be proceeded upon, and for conſidering of the "ſtate of Impeachments brought up from the "Houſe of Commons *the laſt Parliament* and of all "incidents relating thereto, upon which the Lords "Committees were of opinion, that in all caſes of "appeals and writs of error, they continue and are "to be proceeded upon in *ſtatu quo* as they ſtood "at the diſſolution of the laſt Parliament without "beginning *de novo*, and that the diſſolution of "the laſt Parliament doth not alter the ſtate of the "Impeachments brought up by the Commons in "that Parliament."

About the 25th of March the Lords acquainted the Commons that they had ſent to apprehend Lord Danby, but that he had withdrawn. A diſabling bill paſſed the Houſe of Lords, and about the ſame time the Commons hearing that the King had granted a pardon to Lord Danby, declared the ſame to be illegal. They next reſolved to bring in a bill of attainder againſt his Lordſhip, which was with ſome alterations or amendments agreed to by the Lords.

Lords. The alterations did not pleaſe the Commons, and they contended, that inſtead of a bill of attainder it became a bill of baniſhment. Several conferences took place, in one of which the Lord Privy Seal ſpoke of the order of the 19th of March, 1678-9, as a point gained to the Commons, that is, the continuation of Impeachments after a diſſolution of Parliament. The Commons, however, did not conſider it in that light, but contended for its being the antient courſe and method of Parliament.* The Commons at length prevailed, and the 21ſt of April, 1679, was appointed for Lord Danby's ſurrender. On 15th of the ſame month his Lordſhip ſurrendered himſelf, and on the 25th following the Lords acquainted the Commons that Lord Danby had put in his plea. He pleaded the King's pardon and the Commons denied the validity, and demanded judgement againſt him on the 25th of May. Two Days after the Lords acquainted the Commons that they had fixed the 10th of the ſame month for Lord Danby's making good his plea, and that they had addreſſed his Majeſty to appoint a Lord High Steward. There were at that time five other Lords under Parliamentary proſecution. The Commons propoſed the appointment of a Committee of both Houſes to ſettle the mode of trial both as to them

* Mr. Hume in his Hiſtory of England takes notice of this being an unprecedented caſe, and imputes the renovation of the Impeachment againſt Lord Danby to rekindled reſentment, which the Commons entertained towards him on account of the diſpute which had juſt before happened on the Election of a Speaker.

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and to Lord Danby. This propoſal was not very well reliſhed by the Lords, but it was at length acceded to. Upon this occaſion diſputes aroſe with regard to the Biſhops, whom the Commons wiſhed to exclude from voting in capital offences; whilſt theſe conferences and diſputes were carrying on, the King prorogued the Parliament till the 14th of Auguſt.

A new Parliament met on the 17th of October, 1679, and was prorogued to the 26th of the next January. After ſeveral prorogations, the Parliament met for the diſpatch of buſineſs on the 22d of October, 1680, and was diſſolved the 20th of January following, without taking any farther notice of Lord Danby. The next Parliament met at Oxford on the 21ſt of March, 1680-1, and was diſſolved 7 days after their meeting. No other Parliament was convened during the reign of King Charles II. who died February the 6th, 1684-5. On the meeting of the firſt and only Parliament held in the reign of King James II. Lord Danby petitioned the Houſe of Lords, as did three other Lords who had lain under Impeachments ſince the year 1678. The Houſe took into conſideration the hardſhip of their caſes, and came to the following queſtion, viz. whether the order of the 19th of March, 1678-9, be reverſed and annulled as to their ſeveral Impeachments, which paſſed in the affirmative. Againſt this deciſion four Lords only proteſted, and gave for reaſons,

1ſt, That it endeavoured an alteration in a judicial rule and order of the Houſe in the higheſt part of their power and judicature.

2d, Becauſe it laid aſide an order made and renewed upon long debate, report of Committees of Precedents, and former reſolutions.

3d, Becauſe every Court of judicature ought to preſerve the former rule of proceedings.

As King Charles had formed a reſolution to govern as long as poſſible without Parliaments, and as Lord Danby had remained near three years in priſon without any proſpect of having his plea diſcuſſed, or being enlarged by trial and acquittal, he applied to the King's Bench to be admitted to bail, which was argued in May 1682. The Chief Juſtice checked his Lordſhip's Council, which induced Lord Danby to ſpeak for himſelf. He argued his own caſe with great ability, and though he did not ſucceed upon the firſt, ſecond, or third application to the King's Bench, he did at length (Hilary term 1683) convince all the judges, who unanimouſly agreed that he ought to be bailed. There are to be found in Lord Danby's Speech ſome very ſtrong and apparently unanſwerable arguments againſt the validity of a commitment by the Houſe of Lords after the diſſolution of Parliament. Poſſibly thoſe and ſimilar arguments induced their Lordſhips to annul the order of the 19th of March, 1678-9. It was however by virtue of this order that Lord Stafford was tried, condemned, and executed, in December 1680. This Nobleman was impeached by

by the ſecond Parliament of King Charles II. on the 5th of December, 1678, and brought to trial by the fourth Parliament of the ſame King two years afterwards. One of the exceptions taken by the priſoner was, that the Impeachment, or I ſhould ſay articles, were preferred in a former Parliament. This was anſwered by Sir William Jones and Serjeant Maynard, both eminent Lawyers and Managers, but I muſt ſay, the anſwer was very jejune and unſatisfactory. The latter, that what was once upon record in Parliament, might at any time afterwards be proceeded on, that it was a ſudden objection, but that he conceived it had been done, and that if there were no precedent, he hoped, in ſuch a caſe as this, the Court would make one. He concluded with ſaying, that reaſon was for it; but he did not attempt to ſhow in what manner reaſon favored his ſide of the queſtion. Sir William Jones admitted, that a general impeachment was begun in the Long Parliament; but a particular one, he ſaid, was begun in the laſt, that his Lordſhip had pleaded to it, at a time when he was not ſo well adviſed as at the preſent moment.

The ſtronghold, which Sir William Jones laid his hand on, was the reſolution of the Lords on the 19th March, 1678-9, which I have already quoted at length. An argument of this nature was unanſwerable by the Lords, who were bound to maintain their own reſolution till formally reſcinded and annulled.

Sir Francis Winnington ſpoke alſo to the ſame point, but reſted entirely upon the order of the 19th of March above alluded to. Upon the whole, it ſeems to have been a very doubtful point, whether Impeachments were extinguiſhed by a diſſolution of Parliament or not, before that period, but the inconvenience of the reſolution was ſo ſenſibly felt in the caſe of Lord Danby, that it continued not quite ſix years. Since the caſe of Lord Stafford, I believe the Hiſtory of England affords no inſtance of proceeding being had upon an Impeachment begun by a former Parliament. In the caſe of the Lords Saliſbury and Peterborough, in 1789, a Committee was appointed by the Houſe of Lords to inſpect precedents, and after the inſpection thereof, and a conſideration of the reſolutions or orders of the 19th of March 1678-9, and the 22d of May 1685, the Lords above-mentioned were diſcharged from their bail. A proteſt was entered againſt this order by only eight Lords.

The next Impeachment which ſeems applicable to the preſent queſtion, was of the Duke of Leeds in 1695. His Grace was accuſed by the Commons of corruption in a matter concerning the Eaſt India Company. On the 30th of April the Lords informed the Commons of the Duke's having put in his anſwer and accompanied their information with a copy of it. On the 1ſt of May the Lords ſent a meſſage to remind the Commons thereof, ſaying, that they thought themſelves obliged in juſtice ſo to do, and to deſire to know when they would be ready

ready to make good their articles, in order that a day may be appointed for that purpoſe.

The next day the Duke complained heavily of the delay of the Commons in not replying to his anſwer, alledging, that the Impeachment was only to load him with diſgrace, and that they never intended to try him. On the day following, he preſſed the Lords to diſcharge the Impeachment, unleſs the Commons replied. The ſame day, the Commons declared, at a conference, that the withdrawing of a material witneſs had occaſioned the delay; in conſequence of which, proclamation was made to prevent the witneſs from leaving the kingdom. A few days afterwards, the Parliament was prorogued, and in October it was diſſolved, and a new one met on the 22d of the following March.

It does not appear that this Proſecution was ever renewed. In the caſe of the Earl of Oxford, a debate aroſe, "Whether an Impeachment was ſuper-"ſeded by a prorogation of Parliament." Many Lords maintained the affirmative, but it was carried in the negative. A Proteſt was entered by eleven Lords, and one reaſon aſſigned was, "that they "could ſee no difference between a prorogation and "a diſſolution of Parliament, which in conſtant "practice have had the ſame effect as to determina-"tion both of judicial and legiſlative proceedings, "and that this vote might tend to weaken the Reſo-"lution of this Houſe, made on the 22d of May, "1685, which was founded upon the law and prac-"tice of Parliament in all ages, without one prece-"dent

" dent to the contrary, except in caſes which " happened after the order of the 19th of March, " 1678-9, which was reverſed and annulled in " 1685; and, in purſuance thereof, the Earl of " Saliſbury was diſcharged in 1690." At that time it was not inſiſted on by any one that a diſſolution of Parliament did not annul an Impeachment; neither do I know that it is inſiſted on now by thoſe that are intereſted in the deciſion. It is true, the Lords may, if they pleaſe, reverſe the order of May 22, 1685, and revive that of March, 1678-9, but whether they will or not, is a matter of much uncertainty. Serjeant Maynard, in the caſe of Lord Stafford, ſaid, that reaſon was in favour of the Impeachment's remaining in *ſtatu quo* after the diſſolution of that Parliament which brought it forward, and to be ſo taken up by the ſucceeding Parliament. The Serjeant did not tell the Court what his reaſons were for that opinion, and Sir William Jones reſted very wiſely upon the order of March, 1678. In my opinion, a variety of reaſons may be urged in favour of the contrary doctrine; but my mind cannot ſuggeſt one in favour of the Serjeant's mode of thinking. One reaſon that ſtrikes me very forcibly is this: The Houſe of Commons is not a permanent body, but may be diſſolved at pleaſure. Every right and privilege which the Members enjoyed individually, ceaſes with the diſſolution of the body to which they belonged; and indeed it would be highly abſurd, if the caſe were otherwiſe. But it is equally abſurd to ſuppoſe a non-exiſting body can have

have any rights or privileges after its civil death, and which never can revive again, unleſs the King ſhould happen to die before a new Parliament is aſſembled. It is true, if a man be robbed or aſſaulted, and die before the proſecution is determined, there is no reaſon why the proſecuted party ſhould be acquitted by the death of the injured one. The King ſues the offender for a breach of his peace; and as all puniſhment, at the ſuit of the King, is for example more than vengeance, the utility of the proſecution is not at all diminiſhed by the death of the real proſecutor. I am aware that the ſame may be ſaid with regard to Impeachments, that they are at the ſuit of the People, and that the Commons are no more intereſted in the event than all the reſt of their fellow-ſubjects. If this were really the caſe, it would be unanſwerable; but every body knows that the reverſe is the real truth. If I grant a power of attorney for the performance of a ſpecial act, that act is really mine. So alſo, if I give a general power of attorney, the acts of my agent are and ought to be conſidered as mine; and my not revoking the general power is a plain declaration of my being ſatisfied with his conduct. But were I obliged to give any perſon an irrevocable power of attorney for ſeven years, the acts which he performs would be virtually his and not mine.

By the Conſtitution of this kingdom, the conſent of the people governed is neceſſary to the laws that are to govern them: but by the ſame Conſtitution they are obliged to make a temporary tranſfer of their

their legiſlative power to a certain number of Deputies. Thoſe Deputies, when choſen, are their own maſters: they are not removable by their electors, and conſequently enjoy, for ſeven years, all the legiſlative rights of the People. It may be ſaid, that the People give their conſent by their Deputies, but that doctrine is juſt as abſurd as tranſubſtantiation. No man can give a free and voluntary approbation to a thing that is to happen, before he has heard or thought of it. I conſider a Member of Parliament's ſeat in the Houſe of Commons much in the ſame light as I do a tenant for years poſſeſſing ſome part of a manor; it is his property till the leaſe expires, and he may do any thing with it, that is not contrary to the conditions of the leaſe. So a Member of Parliament has, by gift of his conſtituents, a ſeven year's right of legiſlation. I believe no man upon earth can deny the truth of what I have aſſerted. It muſt follow then that an Impeachment is, to all intents and purpoſes, an act of the Majority of the Houſe of Commons, and that the People have, in fact, nothing at all to do with it. For were every County and every Borough in the kingdom to join in petitioning the Houſe of Commons to deſiſt from a proſecution, they are not bound to take notice of it.

In the year 1701, the Magiſtrates and Grand Jury of Kent preſented a petition to the Houſe of Commons, and the Gentlemen who delivered it were committed by the Houſe, who voted the ſaid petition to be ſcandalous, inſolent, and ſeditious. Soon after,

after, a pamphlet was ſent to the Speaker of the ſame Houſe of Commons, known by the name of the Legion Letter, which reprehended the conduct of the Houſe in terms of great ſeverity. Among other grievances complained of, was this :—" That " the delaying of proceedings upon capital Im- " peachments, to blaſt the reputation of perſons, " without proving the fact, is illegal and oppreſ- " ſive, deſtructive to the Liberty of Engliſhmen, a " delay of Juſtice, and a reproach of Parliaments." Theſe are ſtrong and harſh words, but I do not quote them as applicable to the late Houſe of Commons, for they certainly were not backward, however prolix their Managers may have been. I mention this laſt inſtance, and the foregoing, merely to ſhew that the voice of the People, with reſpect to Impeachments, had but little effect with Parliament. This was very juſtly conſidered as a ſeditious buſineſs; but the impriſonment of the Kentiſh Gentlemen was condemned by the greater part of the kingdom. I make no doubt but in general the Houſe of Commons would, from prudential motives, give way to the wiſhes of the People; but their acts would not be leſs conſtitutional or more illegal on that account, if they did not.

When our Kings diſſolve their Parliaments, it is evident that they do not conſider them as ſpeaking the voice or ſentiments of the People; for the very object of calling a new Parliament, is to diſcover if the late Parliament did or did not ſpeak the language of their Conſtituents. If then we agree that the

Houſe of Commons, though the Repreſentatives of the People, are in fact uncontrolable and irreſponſible truſtees, all the acts which they do, are undeniably their own.

Now let us ſuppoſe, that an Impeachment were to be conſidered as the proſecution of the People, and to continue from Parliament to Parliament, it might ſo happen that the Lords might ſend to a ſucceeding Houſe of Commons to acquaint them of the day they meant to reſume the Trial; the Commons might, with great propriety, return for anſwer, We know nothing of the matter—we never voted an Impeachment—we do not approve of it: The Priſoner muſt then be acquitted—and why? Not for want of evidence, but for want of proſecutors. It might then be ſaid the People have changed their mind; they lodged a proſecution, and began the trial, and now, without leave of the Court, they withdraw the proſecution. Into this abſurdity we muſt neceſſarily fall, if we maintain that an Impeachment remains in *ſtatu quo*, deſcending from one Parliament to another. But if we ſuppoſe an Impeachment to be the act of our Repreſentatives in their capacity of unlimited diſpoſers of the People's legiſlative rights, and that all their acts not paſſed into law are as diſſoluble as themſelves in their corporate capacity, then there is no abſurdity at all. One ſet of Delegates did one thing, and their ſucceſſors do another. The Conſtituents are not betrayed into inconſiſtency and abſurdity, as they muſt be if an Impeachment, begun by one Parliament

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and diſcontinued by another, be conſidered as the real and virtual act of the People at large. It is uſual to ſay, that the act of the Houſe of Commons is the act of the People; but if a legal deciſion is to reſt upon it, we muſt ſoon find that it was built upon an aerial foundation.

Mr. Fox on the ſeventh day of Mr. Haſtings's trial, and in his opening of the firſt article, gave a very true and juſt account of what an Impeachment really is, with reſpect to its origin and ſource. I will tranſcribe his words, as they were taken down by one of the Short-hand Writers:—"My Lords, "former Impeachments have been many of them "highly laudable; there have been ſome, in which "we might wiſh that ſome things had been dif- "ferent; but I believe they have all this in com- "mon—*that they have generally been the proſecution of* "*a powerful and triumphant Party in the Houſe of* "*Commons, generally on right principles, ſometimes on* "*miſtaken ones; but they have come to the Bar of this* "*Houſe to impeach perſons who have been ſo unfortunate* "*as to fall under their diſpleaſure.*" According to this, and I believe no man in his ſenſes who has ever read the Hiſtory of England, will deny the truth of it—an Impeachment is, in general, a trial of political manœuvre, and ſtrength of Parties. This alone would, with a cool, diſpaſſionate, and diſintereſted man, be a very cogent reaſon why Impeachments ſhould end with the Parties who brought them forward.

No doubt, when the Lords, in 1678, determined that Impeachments ſhould paſs from Parliament to Parliament, they went upon the idea, that though the Repreſentatives were changed, the principals, that is, the People, were the ſame. But when they came ſeriouſly to conſider the caſe of Lord Danby, and the Popiſh Lords, they ſaw the inconvenience of the order they had made, and conſequently reverſed it. The Judges were extremely puzzled how to act. They ſaw a priſoner of high rank committed by an exiſting body, and kept in priſon by a non-exiſtent body, if I may be allowed to uſe ſuch an expreſſion. Still they did not know how the Lords might conſider their interference at their next meeting; and it ſeems to have been done with much apprehenſion, when they did at laſt conſent to take bail. Lord Danby, in the courſe of his arguments before the King's Bench, put his own ſituation in a variety of ſtrong and ſtriking lights, and in every one the abſurdity of the order of March, 1678-9, appeared more and more conſpicuouſly. There was an abſurdity in the idea of an inferior Court bailing a priſoner committed by a ſuperior Court, which had refuſed bail. In that light it appeared to Chief Juſtice Pemberton. But there was an abſurdity alſo in the idea of a perſon's remaining a priſoner *ad cuſtodiam* only, under a commitment by a Court that had loſt its exiſtence, and was uncertain when it might recover it again: or, in other words, it was abſurd that an annihilated authority ſhould be of ſuperior force

force and efficacy to any exiſting authority in the kingdom. By the order above-mentioned, an act of one ſingle branch of the legiſlature acquired all the ſolidity and ſtrength of an act of the three eſtates. But I do not ſee how the Houſe of Lords can be conſidered as a permanent body, ſince ſixteen of them are elective.

It is true, by far the majority of the Peers ſit in Parliament by their own right, either hereditary or created, but as that Houſe is compounded partly of Peers by inheritance, partly of Lords of Parliament by office or promotion, ſuch as the Biſhops, and partly of repreſentatives of the Peers of Scotland, it never can be conſidered as a fixed and permanent Court of Juſtice. A King may according to the preſent Conſtitution govern without a Parliament, if he can find ſupplies of money, &c. for the ſpace of three years, but no longer; yet when a Parliament is aſſembled at the end of three years, there is nothing that I know of that prevents a ſudden diſſolution again.

It were for theſe and many other reaſons extremely abſurd, that the unfiniſhed acts of ſuch an unſteady Court, both as to the time and duration of its ſitting, ſhould continue alive, while the Court itſelf is civilly defunct. But as the cuſtom of Parliament now ſtands (at leaſt what I conceive to be the cuſtom of Parliament) all the difficulties vaniſh, an unfiniſhed Impeachment dies and is extinct with the power of thoſe who introduced it, and of thoſe who were to decide upon it; then, on the meeting of a

new

new Parliament, if the Commons think there ſtill remains matter enough to impeach the party accuſed a ſecond time, there appears to be no very ſtrong reaſon why they ſhould not undertake it. But, as I ſaid before, the preſerving of an Impeachment alive after the diſſolution of the Impeachers, makes the ſucceeding Houſe of Commons heirs to the diſputes of their predeceſſors. This is contrary to the genius and ſpirit of elective legiſlation, for the reaſon of diſſolving one Parliament and calling another is to abate animoſity and contention, and to put it into the power of the people at large to rectify the miſtakes they may have made in the choice of their repreſentatives. But if Impeachments are kept alive by ſome kind of magic, notwithſtanding the total extinction of the Impeachers, and during the civil death of the judges, it follows that *quoad hoc* the diſſolution of Parliament is of no uſe, and the people have no power of correcting the miſtakes of their repreſentatives, becauſe the newly elected Members muſt follow the footſteps of their predeceſſors, unleſs they avoid it by falling into another abſurdity, and make the people their conſtituents at variance with themſelves, I mean that of refuſing to proſecute when called upon by the Lords for that purpoſe.

The lawyers of former days introduced a number of fictions into their method of arguing, and it was generally done to extricate themſelves out of ſome difficulty in which imprudence and want of foreſight had involved them; but this I have obſerved, that

that whenever fiction is argued upon as a general principle, the conſequences are nothing but a ſtring of abſurdities and contradictions.

There is alſo another apparent abſurdity in continuing Impeachments alive after the diſſolution of Parliament, particularly after the Managers have carried them to trial as in this inſtance. Thoſe who conducted the buſineſs in one Parliament, may be diſqualified from doing it in the next by not being re-choſen. How then could a trial in an advanced ſtate be reſumed by thoſe who had never yet taken it up? But, independent of the abſurdities I have ſtated and many others pointed out by Lord Danby, there is another ſtrong reaſon againſt the reſuſcitation of Impeachments in *ſtatu quo*, after a diſſolution of one Parliament and in the beginning of another. Impeachments partake very much of the nature of legiſlation, and are exerciſed only by the three branches of the legiſlature; they aſſume to themſelves the right of puniſhing for acts not made criminal either by the common law or the ſtatute law of this Kingdom. One of the greateſt bleſſings any nation can enjoy conſiſts in having the nature and extent of criminality accurately defined, that is, that every ſubject may know what is criminal and what is not, and that the puniſhment of crimes ſhould be left as little as poſſible to the diſcretion of the judges. This laſt rule cannot be univerſal, but the more general it is, ſo much the better for the ſubject. But the two Houſes of Parliament, in their judicial functions, exerciſe their legiſlative capacity

pacity alſo, for if the majority in the Houſe of Commons think any act wrong, no matter whether there can be a precedent found in common law or a prohibitory clauſe in ſtatute law or not, they immediately call it criminal, carry up their charge to the upper Houſe, and if the majority of the Lords agree with the Commons in thinking the act wrong, the party is condemned and puniſhed. This power is entruſted to no other court; for in indictments and informations in the King's Bench, you muſt ſhow that the act is an offence either by common law or ſtatute, or the indictment will not lie; but an Impeachment will lie for any thing, for example, a Miniſter who makes a bad peace or a bad treaty, may be impeached, and it is not unreaſonable to ſuppoſe that Mr. Fox and his party, had they been ſtrong enough, would have impeached Lord Shelburne for the peace he made at the concluſion of laſt war. If then Impeachments partake ſo very much of the nature of legiſlation, and if it be the approved cuſtom and uſage of Parliament, that all acts not ſanctioned by the expreſs conſent of the three eſtates, ſhould by the diſſolution of Parliament be utterly annihilated and extinguiſhed, why then it is equally juſt and reaſonable that Impeachments not finiſhed ſhould ſhare the ſame fate.

In favour of perpetuating Impeachments I have heard this argument urged, that if the diſſolution of Parliament extinguiſhed an Impeachment, it would be in the power of the Crown to ſcreen any offender from juſtice, for though he might be imprisoned

priſoned or bailed, yet as he would be ſet at liberty by a diſſolution of Parliament, he might leave the kingdom and defeat the intentions of his accuſers: this objection derives all its validity from a ſuppoſition of a caſe not likely, if poſſible, to happen. It is ſcarcely poſſible for any monarch, as the Conſtitution now ſtands, to govern for one year without preſerving the confidence either of a Parliament or the People. If the Houſe of Commons thwart the King's meaſures, an appeal may be had to the people as in the year 1784, but if the people approve the conduct of their deputies and return them again, I do not ſee how the buſineſs of Government can go on, until a good underſtanding be reſtored between the King and his Parliament. No cabinet miniſter will ever be found bold enough to adviſe his Majeſty to diſſolve a parliament for the ſake of letting a traitor eſcape from puniſhment. One cannot make this ſuppoſition without making another very abſurd one, namely, that there may exiſt a King who is an enemy both to himſelf and his people, but if the poſſibility, without the probability of a King's abuſing his prerogative, or uſing it for the injury and not the good of the people, were a ſufficient cauſe why the King ſhould not be intruſted with it, it would follow that a King ſhould be intruſted with no power at all; for there is ſcarcely a part of the royal prerogative that may not be turned to injury, if a King were inclined ſo to do. The Conſtitution of this kingdom muſt unavoidably truſt the executive power with many prerogatives; the wiſ-

dom of our anceſtors have contrived many checks, but it is uſeleſs to contrive a check for an event that is never likely to happen; beſides, if it be thought dangerous to the welfare of this kingdom to leave it in the power of a King to deliver a criminal from the hand of juſtice by the diſſolution of Parliament, it muſt be equally dangerous to leave it in the King's power to pardon the offender after trial, conviction, and ſentence. No man will deny the King's power of pardoning after ſentence, notwithſtanding the King's pardon cannot be pleaded in bar of an Impeachment yet pending. It would be juſt as bad to pardon an offence, in defiance and oppoſition to the cries of the nation for juſtice, as it would be to diſſolve a Parliament for the ſake of letting an offender eſcape. Both would amount to the ſetting up of a ſeparate intereſt between the King and people, and the flight of the criminal would amount to a confeſſion of guilt equal if not ſuperior in point of evidence to a legal ſentence. I have heard alſo the precedents which I have quoted treated with ridicule becauſe they happened in the reign of the Stuarts. It is true, the order of 1678, was made in the reign of Charles II. and that of 1685 in the reign of James II. but the recognizing of the laſt in the caſe of Lord Saliſbury and his diſcharge thereon, happened in the reign of King William. The Tory intereſt did not prevail at that time. I agree with thoſe, who think that a diſſolution of Parliament ought not to annul an Impeachment, that bad precedents ought not to be followed. The changes and alterations to which all ſtates are liable, often render

render a precedent which was very good at the time of making it a very dangerous one to follow at a future period.

For this and other reaſons a judicial Court of ſo high an authority as the Houſe of Lords, ought not to be indiſſolubly bound down by forms and precedents, but then there ought to be ſome very good and ſubſtantial reaſon for ſetting aſide the old, and making a new precedent. If precedents were to be univerſally diſregarded, the ſtudy of the law would be at an end. The Solicitor and Advocate would have to ſtudy the capacity and to diſcover the temper and paſſions of thoſe who were to decide, and after all, a deciſion would be a mere matter of chance.

The incertitude of the law in this country has long been proverbial. It is certainly a great evil; but if precedents were diſregarded, the incertitude would become greater, and the evil would be intolerable. A divided Government muſt adhere ſtrictly to forms. Its very exiſtence depends more upon form than ſubſtance. Our anceſtors, in framing this Conſtitution, had an eye to the natural propenſity which all men have to exerciſe arbitrary power, and therefore eſtabliſhed forms and precedents for all the inferior Courts of Juſtice, well knowing, that if judges were allowed at all times to ſet aſide precedents, it would amount to an annihilation of all the common law of this kingdom.

The only caſe that can conſiſtently with reaſon juſtify the deviation from precedent is, where the

danger of following it, is greater than may be reaſonably expected to attend the departure from it. The ſetting aſide a precedent tends to unſettle the law. Inferior Courts follow the example of ſuperior, and if precedents are treated with diſregard by the Houſe of Lords, the influence of it may extend to all the Courts in the kingdom. I have heard it objected to the precedents I have quoted, that in the year 1700, the Duke of Leeds having been impeached in a former Parliament, the Lords came to a reſolution to diſcharge the Impeachment becauſe the Commons did not proceed to proſecute. This has been held up as a kind of revocation of the order of 1685. In my opinion no ſound argument can be drawn from ſo looſe a determination; it does not ſay that the Lords diſcharged the Impeachment for that reaſon only, or that they would have gone on with the ſame trial, had the Commons urged them to it. The queſtion before the Court was, not whether a diſſolution annuls an Impeachment, but what is to be done with the Duke of Leeds? And the determination is, as nobody proſecutes, we ſhall diſcharge the Impeachment. It would be abſurd to give a looſe expreſſion which paſſed without examination or debate, all the weight and efficacy of a reſolution made after ſearch of precedents, and a patient hearing of all the arguments that could be urged both for and againſt it.

I have alſo heard it ſaid, and it was ſaid with great truth, that there is no inſtance in the annals of England

land to which Mr. Haſtings's trial can be compared, that in the caſes I have cited, the proceedings had gone no farther than the charges, anſwer, and replication being given in to the Houſe of Lords, and that the Commons had not begun with the adduction of evidence. All this is true, but it is impoſſible to draw any line after the accuſed has put in his anſwer, for the trials is as much begun and in a ſtate of progreſſion immediately after the accuſed is called upon to anſwer, as it can be at any ſubſequent period. When the proſecutors and proſecuted have joined iſſue, the trial is to all intents and purpoſes begun and going forward.

In what I have written with reſpect to the durability of Impeachments, I have conſidered Mr. Haſtings as totally out of the queſtion. I do not know what his ſentiments nor thoſe of his lawyers are on this point, having never converſed with either on this ſubject. I have treated it as a ſpeculative queſtion, into which I was led by the diverſity of opinions which I have heard offered at various times by various perſons. If I were aſked, whether it were more to the intereſt of Mr. Haſtings, that the Impeachment ſhould revive in *ſtatu quo*, or be begun *de novo*, I ſhould not heſitate to declare in favour of the former. It would be a moſt cruel caſe indeed, were he made to ſtand the brunt of 60 or 70 days invective over again upon the Articles which are already gone through, and to furniſh the ſame entertainment again to a numerous audience, who eſtimate the value of a ticket by the ratio

tio of abuſe, and all this for the performance of acts which at the time of doing he thought highly meritorious.

Certainly when he taxed one rich ſubject in India, and confiſcated the treaſures of another, he thought he was ſerving *this* country by preſerving our poſſeſſions in *that*; but now he finds that what he thought meritorious is by other politicians thought criminal in the extreme. It is owing to thoſe crimes, (if they are crimes) that Mr. Dundas, who voted for the Impeachment, has at this moment ſo principal a ſhare in the controul of all India, for without them there had been nothing to controul. In my inquiry into the probability of the Impeachment being ended by the diſſolution of the laſt Parliament, I have been imperceptibly led into a greater length than I intended, and I may ſubject myſelf to the cenſure of the lawyers for meddling with a queſtion wholly appertaining to their province; to their rebuke I muſt ſubmit if they think fit to give it, and were I not deterred by the apprehenſion thereof, I might have carried my inquiries ſtill farther into the nature of Impeachments in general. I ſhall however drop this ſubject, and conclude the work I have undertaken with ſome general remarks upon the manner in which Mr. Haſtings's trial has been conducted.

The Leader of the Impeachment gave notice of his intended attack in the year 1785, and in the year following he made a variety of motions, in ſome of which he failed and in others ſucceeded.

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He carried his point at that time ſo far as to get the Benaris charge voted to contain impeachable matter. From that day it is very natural to ſuppoſe that Mr. Haſtings muſt have ſuffered great uneaſineſs in his mind. The next year, viz. 1787, all the Articles were voted and carried up to the Lords, but the Seſſion was too far gone to begin a trial which promiſed ſo much perplexity and delay. Whatever he might have felt the preceding year, he muſt have felt ſtill more in the interval between the final vote of the Impeachment and the commencement of the trial. It may be ſaid, that innocence has no reaſon to fear: That aſſertion, however, is not founded on truth. The opinions of men are often ſo divided upon the queſtion of guilty or not guilty, that every man, however pure his heart may be, muſt be apprehenſive whilſt under trial for his own ſafety. In common caſes the facts only are inquired into, and the judge in ſumming up the Evidence directs the attention of the Jury to facts only; for all criminal caſes that are tried in inferior Courts of Juſtice have ſomething in them either of the *malum in ſe*, or the *malum prohibitum*, but political offences conſiſt too often in the ſpirit of parties. Dr. Sacheverel's Sermon would not have been thought criminal in the reign of James I. though it was deſervedly condemned at a later period. The Managers of the preſent Impeachment have often maintained that they ought to be bound, not by the rules and forms of the common law, but by the *lex* and *conſuetudo Parliamenti*. How variable the law and cuſtom

cuſtom of Parliament is, appears by the ſeveral votes and reſolutions I have quoted ſo often in the courſe of this work; one would, however, be apt to think that Juſtice muſt be fixed and immutable, and that whatever rules were fit to be purſued in one Court were equally proper in another. For the reaſons I have mentioned, every man's mind, whilſt under an accuſation by ſo powerful a body as the Houſe of Commons, muſt be in a ſtate of extreme ſolicitude; and however firm a reliance he may place on the juſtice of his judges, he cannot anſwer for the operation of their conſciences. Every Peer, no doubt, follows the dictates of his conſcience, but from their different votes upon many ſtate trials, it is evident their conſciences dictated a very different language. I mention this more particularly to ſhow what ſtate of mind every perſon muſt be in, who falls under the indignation of the Houſe of Commons: he can have no property that he can call his own, for the fine may exceed his power of payment, nor can any perſon with ſafety confide property in his hands, for it may be ſwept away in the general ruin. The ſtate of mind which I have deſcribed and perhaps much worſe, though with a *mens ſibi conſcia recti*, Mr. Haſtings muſt have ſuffered from the year 1787 to the preſent moment. But he could not have enjoyed much tranquillity for the two years immediately preceding. Every body knows that the delay of juſtice is almoſt tantamount to the denial of it. Of this delay Mr. Haſtings complains, and with great reaſon. In ſaying this,

I do

I do not mean to reflect on the late Managers of the proſecution, for I will do them the juſtice to ſay, they were never backward on their parts. Much time was ſpent in making long Speeches, which in my opinion might have been condenſed or abridged without loſing any of their ſtrength and energy. They certainly did not follow the example of that Athenian, who being aſked what he was meditating on, replied, that he was thinking how to condenſe what he had to offer to the people, without loſing any part of its ſignification. Brevity in ſpeech is not their failing, but it matters not to what cauſe the delay is owing. It has certainly been enormouſly great, and has formed a precedent of a very dangerous tendency to the liberties of this country. It has militated, not only with Magna Charta, and with the principles of the Conſtitution, but with the principles of natural juſtice, and with the deareſt and moſt valuable rights of mankind. Lord Danby, when he pleaded his own cauſe before the King's Bench, quoted the comment of Lord Coke upon the following words of Magna Charta, viz.

" *Nulli vendemus, nulli negabimus, aut differemus* " *juſtitiam*; that they are ſpoken in the perſon of " the King who in judgement of law is always pre- " ſent, and repeating the ſaid words, in all his " Courts of Juſtice; and therefore every ſubject " of the realm may at all times have a remedy by " the courſe of the law, and may have juſtice done " *freely, fully*, and *ſpeedily* without delay, for delay

" is a ſort of denial." The ſaid Lord Coke obſerves farther, " that thoſe words of Magna Charta " are fully explained by later Statutes, viz. 20th of " Eliz. c. 3, which do direct that there ſhall be no " delay or hindrance of ſpeedy juſtice to any man, " neither by any ſeal, nor by any order, nor any " writ whatſoever, neither from the King, nor by " *any other* cauſe."

Lord Danby applied this doctrine to his own caſe, to ſhew that impriſonment for two years without a trial was againſt the laws of this country. His arguments did at length prevail over the reluctance of his judges and they conſented to his being bailed. But if this quotation from Lord Coke applied with force and effect to Lord Danby's caſe, it applies with much greater to this of Mr. Haſtings.

The trial of Mr. Haſtings has laſted in one and the ſame Parliament for three years. There have been three prorogations and a Diſſolution of Parliament ſince the Articles were preſented to the Lords by the Houſe of Commons. Certain it is, that our anceſtors by the obtaining of Magna Charta, and by the enacting a variety of ſtatutes in favour of liberty and natural juſtice, did ſuppoſe, as they very reaſonably might, that they had barred the door to every ſpecies of oppreſſion. In this, however, they were miſtaken; for here we ſee an inſtance how a man, innocent, for any thing yet proved to the contrary, may be ruined in his fortune, health, and every thing that is worth living for, by a ſpecies of delay unprecedented in the hiſ-

hiſtory of this country. I call it unprecedented, becauſe upon looking over the ſix volumes of State Trials, which commence with the 11th year of Richard II. and end with the 16th of his preſent Majeſty, there is not one inſtance of a trial's duration in any degree ſimilar to this. The longeſt I met with is that of Archbiſhop Laud, which continued from the 12th of March, 1643-4, and ended, as to proceeding by Impeachment, the 11th of October following. On the 3d of January, 1644-5, he was condemned by bill of attainder, and executed on the 10th of the ſame month. This Prelate had been under confinement for a great while previous to his trial; but it muſt be remembered, that this caſe happened during the Civil Wars, at a time when the Conſtitution was torn to pieces by inteſtine convulſions. In times of greater tranquillity ſuch a precedent would ſcarcely have occurred.

That the Lords themſelves have at various times thought delay very incompatible with juſtice, is evident from the many meſſages they have occaſionally ſent to the Commons to remind them of the articles delivered in and not followed up in due courſe of time. In the caſes of Lords Somers, Portland, Orford and Halifax, the Houſe of Lords gave the Commons to underſtand that they thought it incumbent upon them to diſpatch the trials of all the impeached Lords before the riſing of Parliament; *that it was what Juſtice required, and could not be looked upon as a matter of indulgence.* If it be true what the Lords there ſay with reſpect to the impeached No-

bles, and I believe there is no man in the kingdom cruel enough to deny it, ſurely juſtice required that Mr. Haſtings's trial ſhould have been diſpatched in leſs than three years. Happy had it been for that Gentleman, had the Lords in 1788 thought as they did in 1701. The evils of delay to a proſecuted perſon are innumerable, beſides the enormous expence which no fortune, however large, can ſupport. There is a danger of the party accuſed being convicted by the want of Evidence to ſubſtantiate his defence. It is impoſſible any man can keep his witneſſes alive againſt the courſe of nature, and it is unreaſonable to expect or deſire witneſſes to attend year after year, without any conſideration for the loſs of rank and emolument. Some witneſſes, and thoſe of great importance, Mr. Haſtings has loſt by death, and others who came from a foreign kingdom to bear teſtimony in his favour are gone back, and will probably never be prevailed on to return again.

Let us ſuppoſe a caſe not impoſſible to happen, that a priſoner who has been for years upon his trial, and has had the misfortune to loſe his witneſſes by death or unavoidable abſence, ſhould ſay to his Judges; "My Lords, I have had my witneſſes "ready for ſome years; many of them are now dead, "and others could no longer ſupport themſelves in "expectation; I could with the benefit of their "allegations have cleared myſelf of all guilt, I now "find myſelf deprived of the means to make good "my defence and muſt fall a victim to delay." Is there

there a Judge upon earth, unleſs he diſbelieved the priſoner's aſſertion, who could find his own conſcience hardened enough to condemn him.

I do not know of any law exiſting that limits the duration of trials. It is ſeldom that the legiſlature of any kingdom provides a remedy before the evil exiſts. Had it been the cuſtom of tyrannical Kings to keep perſons whom they thought fit to proſecute for year after year on a criminal trial;—no doubt there would have been a clauſe in Magna Charta limiting the duration of criminal proſecutions, or there would have been a ſtatute provided for that purpoſe; for ſurely the ſecuring of every individual againſt the delays of the law is one of thoſe bleſſings in which all mankind, from the higheſt to the loweſt, is equally intereſted. It is true, there are very few men who ever can be brought to the bar to defend a thirteen years Adminiſtration of a foreign country, as Mr. Haſtings now is, but there may be diſcarded Miniſters who may be called upon to account for an Adminiſtration of equal length, who may be involved in equal difficulties with Mr. Haſtings, and perhaps fixed to the bar for life. The ſpirit of party in this country has frequently run very high, and in no aſſemby higher than in the Houſe of Commons. There may be leaders of a party who may avail themſelves of this precedent to harraſs and diſtreſs where they cannot convict and condemn. The very caſe I am now deprecating, may, for any thing I know, be the caſe of Mr. Haſtings; for though I am in my own mind fully perſuaded, that the Lords

Lords cannot proceed upon the preſent grounds of Impeachment, without ſetting aſide the laſt reſolution in the caſe of Lord Danby, yet for any thing I ſee to the contrary, the Commons may begin *de novo*, as they did in the caſe of the Duke of Buckingham. Articles of Impeachment were exhibited againſt the Duke, in May 1626, and in the following month the Parliament was diſſolved. The next Parliament met in March 1628, but they did not take it up in *ſtatu quo*, as they muſt and would have done had there exiſted ſuch a rule as was afterwards made in 1678. The Impeachment was juſt beginning *de novo* when a prorogation took place. Should this be the caſe with Mr. Haſtings, that is, ſhould the preſent Houſe of Commons think his conduct deſerving puniſhment, and vote a new liſt of Articles againſt him, he will act right if he profits by his former miſtake and pleads guilty at one, for as Mr. Sheridan ſaid, his puniſhment could not be more than impriſonment, and a diminution of his fortune; the latter part of this anticipated ſentence has been already inflicted.

His fortune muſt be reduced very conſiderably indeed, by a three years criminal proſecution. But ſuppoſing the proceedings ſhould be annulled by the diſſolution of Parliament, and that the preſent Houſe of Commons ſhould be either ſo alarmed at the length of the proceedings, or ſo well ſatisfied with the innocence of the accuſed, as not to renew the proſecution, Mr. Haſtings will then ſtand in a moſt miſerable predicament. The proceedings, as far

as

as they have gone, will appear at length among the State Trials. They will fill four or five volumes, and occupy nearly as much ſpace as all the State Trials which have hitherto been handed down to poſterity. The bitter invectives of the Managers will ſtand upon record unanſwered and unrefuted. No future reader will believe it poſſible that ſo much can have been ſaid without ſome foundation to reſt upon. Thus may the character of Mr. Haſtings be handed down to poſterity with diſgrace and infamy; for thoſe very acts, which, had he had an opportunity of vindicating, he might have proved to his judges were honourable and meritorious? There is no man, however much he may hate Mr. Haſtings as an individual, but muſt allow, taking it as an abſtract queſtion, that to ſuffer everlaſting aſperſion without the means of juſtification is an evil that calls aloud for redreſs and reformation. There are no bodies of people upon earth that have remonſtrated and complained more loudly of acts of injuſtice than the Britiſh Houſe of Commons has frequently done to the Monarch on his throne; conſequently, no body of people upon earth ought to be more circumſpect and careful, leſt they oppreſs thoſe they are bound by duty to protect. It is not, however, the mercy of Parliament which Mr. Haſtings implores; it is acceleration of juſtice which he aſks, and not compaſſion. Or if it is compaſſion, it is of that ſort which the Lords have frequently ſhewn to Members of their own Houſe, when under an impeachment by the Commons—I mean,

mean, the frequent reminding of the accuſers of the evils of delay, and expediting the buſineſs as much as the cuſtom and uſage of Parliament would permit. There are many inſtances of the Lords acquitting the priſoner and diſcharging the impeachment, when the Commons have been backward in the proſecution.

Before I totally diſmiſs the ſubject, I muſt make a few obſervations upon what paſſed in the Houſe of Commons on the eleventh of May laſt.

Mr. Burke moved the two following reſolutions, which were ſupported by Mr. Pitt: the latter ſaid, that they were ſo reaſonable as to preclude all doubt of their receiving the concurrent aſſent of every Member preſent; and the Houſe agreed to them accordingly:

"Reſolved, that this Houſe taking into conſi-
"deration the interruptions occaſioned by the oc-
"cupations of the Judges and the Houſe of Lords,
"and alſo the impediments which have occurred,
"and may incur, in the courſe of the trial of the
"Impeachment of Warren Haſtings, Eſq. doth,
"without meaning to abandon the truth or impor-
"tance of the charges, authorize the Managers of
"the ſaid Impeachment to inſiſt only upon ſuch
"and ſo many of the ſaid charges, as ſhall appear
"to them moſt conducive to the obtaining of ſpeedy
"and effectual juſtice againſt the ſaid Warren Haſ-
"tings."

"Reſolved, that the Commons of Great Britain
"in Parliament aſſembled, from a regard to their

own

" own honour, as from the duty which they owe " to all the Commons of Great Britain, in whoſe " name as well as their own, they act in the public " proſecutions by them carried on before the Houſe of " Lords, are bound to perſevere in their Impeach- " ment againſt Warren Haſtings, Eſq. late Gover- " nor General of Bengal, until judgement may be " obtained upon important articles in the ſame."

There is ſomething extremely repugnant to my ideas of juſtice in the firſt Reſolution; for it authorizes the Managers to abandon the proſecution of as many articles as they pleaſe, and at the ſame time ſays, " though we do conſent to the derelic- " tion of ſeveral charges, yet we ſtill ſay the pri- " ſoner is guilty of all we have alledged againſt " him;" that is, we will proclaim him to be a baſe man to all the world, but we will not give ourſelves the trouble to prove it. It will take up too much of their Lordſhips time to hear our proofs, and the Judges have ſomething elſe to do beſides ſpending their time in Weſtminſter-Hall.

It is a very ſerious thing for a man to be thus ſtigmatized by ſo great a body as the Houſe of Commons of Great Britain; and I believe no man can be found of effrontery enough to ſay, that it is not cruel and oppreſſive: out of the great reſpect which I owe to the Repreſentatives of the Commons of Great Britain, I will not conſider it in the ſame light as I would do were it between two private individuals. In a ſimilar caſe between the latter, I ſhould not heſitate to ſay, that to deprive a man of

his character in any manner or way that puts it out of the power of the defamed perſon to defend or retrieve it, would be one of the moſt iniquitous acts, next to murder, that human nature is capable of. It is ſaid in our law books, that a King can do no wrong; but I do not recollect having heard or read, that either Houſe of Parliament is equally infallible and ſecure from errors. To accuſe, and not ſubſtantiate the Charge, has been often thought actionable by the Courts of Juſtice: actions have been brought, and large damages have been given, for indictments raſhly preſented. But to accuſe, and not even to attempt the ſubſtantiation of the Charge, has always, and very juſtly, been held actionable by all lawyers of all ages. But the Houſe of Commons, armed with innumerable and undefined privileges, are not accountable to the courts of juſtice; they are reſponſible to none but their conſtituents, and that reſponſibility goes no farther than to the chance of rejection upon their next canvaſſing for a re-appointment.

Had I been one of the Members of the Houſe of Commons, I certainly ſhould not have objected to the abandoning as many articles as the Managers thought fit; but I ſhould have felt ſome reluctance in conſigning a character to everlaſting infamy and diſgrace, without making good all that we had joined iſſue upon, and had alledged againſt it; that is to ſay, I would have left out thoſe words, *without meaning to abandon the truth, &c. &c.* from the Reſolution.

Poſterity,

Poſterity, when they ſhall refer to the Journals of the Houſe of Commons for precedents, will probably be ſtruck with an idea, that the Managers were afraid to come to iſſue upon many of the articles, as the Reſolution ſeems to inſinuate that ſome of them were not very conducive to the obtaining ſpeedy and effectual juſtice againſt the accuſed.

The next Reſolution is to me almoſt unintelligible; but the ſenſe in which I underſtand it is, that the Commons cannot forſake the proſecution without ſubjecting themſelves to the reproach of the world for bringing a charge which they could not make good; and that as they had committed the credit of the people at large, by making uſe of their names in the Impeachment, it was therefore a duty incumbent on the Houſe to get Mr. Haſtings convicted by ſome means or other. By this it ſeems that the perſeverance in the proſecution is more for the purpoſe of ſaving themſelves than for condemning him. I may have miſtaken the ſenſe, and it may mean ſomething very different; but this I am ſure of, that the cauſe or reaſon now held forth to the world for proſecuting Mr. Haſtings, is very different from what it uſed to be. Formerly the object was to retrieve the national character, which had been grievouſly injured by the oppreſſions Mr. Haſtings committed upon the unhappy natives of Indoſtan; but now that the natives in their petitions ſay that they never were oppreſſed; now, that after the total annihilation of Mr. Haſtings's power in India, they all unite in

his praiſes, the gentleman who moved the Reſolution is driven to aſſign other reaſons for continuing the Impeachment.

The reaſons *now*, are, *honour* and *duty*; that is, having ſaid it, we muſt ſtand to it; and having committed the credit of the people, whoſe name we took *pro forma*, rather than for ſubſtance, we muſt, in duty to them, guard the public reputation by condemning Mr. Haſtings. I again ſay, that I do not know this to be the meaning of the Reſolution, but it is that which it impreſſed upon my mind at firſt reading, as it now does after much conſideration of its true import. Suppoſing my conſtruction to be right, I do then ſay, that I differ *toto cælo* with Mr. Burke, in the ſignification of *honour* and *duty*: I hold this doctrine, that there is infinitely more honour and dignity in acknowledgeing an error, than in defending it; that there is more duty ſhewn to the people in acts of ſolid and ſubſtantial juſtice to an individual, than in making them nominally triumphant over a fallen man, who never injured or offended them, but whoſe whole life has been ſpent in their ſervice, and to whoſe zeal and activity they owe a great part of their national reputation. It is a *duty* I firmly believe, which nine tenths of the inhabitants of this kingdom would have readily remitted to the late Houſe of Commons.

Theſe Reſolutions read very well to a curſory eye, but when they are analized, like moſt other general profeſſions, mean nothing at all; or if they have

any

any meaning, it is very different from what was intended to be expreſſed.

I hope I ſhall not incur the diſpleaſure of the preſent Houſe of Commons by animadverting on the laſt: it has been my ſtudy, in all I have written, to avoid giving offence, both to public bodies and to private individuals; but as it may happen, as it certainly has frequently happened before, that a Houſe of Parliament may paſs a vote or reſolution on the ſuggeſtion or motion of ſome popular leader, which, upon farther conſideration, may prove detrimental and ill adviſed; ſo it is a right that every Engliſhman claims, to point out in a reſpectful manner the advantages which may ariſe from reſcinding an oppreſſive Reſolution.—Were I a member of the Houſe of Commons, I ſhould certainly endeavour to perſuade my aſſociates, that the moſt effectual method of making the natives of India believe that we were ſincere in our good intentions towards them, would be to reſtore all the preſents which Mr. Haſtings has taken from the ſeveral Rajahs and Nabobs, and to pay back the confiſcated treaſures of the Begums. A ſtep of this kind would have a ſtronger effect on their minds, than all the ſpeeches that ever were or ever will be made againſt peculation and corruption. The proſecution of Mr. Haſtings for receiving illegally ſums of money for the Company's uſe, without reſtoring the ſaid ſums to their former owners, reſembles the caſe of Phœbidas in the Grecian hiſtory, who was puniſhed by the Spartans for taking Thebes, in direct violation

of

of a treaty of peace: his honorable maſters condemned the act, whilſt they enjoyed all the advantages of it; for they kept poſſeſſion of the place without once conſidering, that if it were unjuſt in Phœbidas to ſeize the city, it was no leſs ſo in them to keep it. This behaviour of the Spartans has been very juſtly ſtigmatized by all the hiſtorians who have treated on the ſubject.

After I had ſent the foregoing ſheets to the preſs, I had an opportunity of ſeeing a copy of a letter from Lord Cornwallis to the Court of Directors, dated the 8th of February laſt; I could not help obſerving, that the preſſure of circumſtances had very nearly driven his Lordſhip to take a ſtep exactly ſimilar to one which is made matter of great criminality in Mr. Haſtings: I allude to his Lordſhip's determination to leave the Preſidency and go to the Coaſt, which journey was prevented by the arrival of General Meadows: the words of his letter are, "My ſenſe of duty to you and to my "country called upon me to diſpenſe with the com-"mon forms upon ſo critical an occaſion, and tho' "I knew that ſeveral great inconveniencies might "ariſe by my quitting the immediate direction of "the ſupreme government, and I was alſo ſenſible "that the meaſure would not have been ſanctioned "by any exiſting law, I determined to take the re-"ſponſibility upon myſelf, and to propoſe that the "ſupreme Board ſhould inveſt me with full powers "to take a temporary charge of the civil as well as "the military affairs of Fort St. George, in order

"to

"to endeavour by my own preſence to prevent a "repetition of the diſgraces and calamities which, "under nearly ſimilar circumſtances, happened "early after the commencement of the laſt war with "Tippoo's father."

Here we ſee an inſtance of the impoſſibility of governing a diſtant country by rigid rules and ordinances; ſomething muſt always be left to diſcretion. In order to decide upon the merit or demerit of the breach of orders in a Governor and Commander in Chief, there is but one queſtion to be aſked, namely, Was it abſolutely neceſſary? By this rule, Mr. Haſtings's conduct ought to be tried; to this I dare ſay he will readily ſubmit; and if it be found that any of thoſe actions, which were the ſubjects of the three Articles already brought forward in Weſtminſter-Hall, proceeded from ſelfiſh views, and not from zeal for the public ſervice, then he certainly deſerves ſevere puniſhment; but if on the contrary, it ſhall appear that thoſe actions were done with the beſt of intentions, and that they really proved the ſalvation of our territories in India, then he deſerves, not only an honorable acquittal, but the warmeſt thanks and higheſt rewards from his grateful country.

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A

COMPARATIVE

REVIEW

OF THE

ADMINISTRATION

OF

Mr. HASTINGS

AND

Mr. DUNDAS,

IN

WAR AND IN PEACE.

By RALPH BROOME, Esq.

Author of the "ELUCIDATION *of the* ARTICLES *of* IMPEACHMENT *againſt Warren Haſtings, Eſq.*"

LONDON:

Printed for JOHN STOCKDALE, oppoſite Burlington Houſe, Piccadilly.

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A

COMPARATIVE REVIEW, &c.

I FORETOLD in the Elucidation of the Articles of Impeachment againſt Mr. Haſtings, which I publiſhed laſt year, the diſtreſs which muſt unavoidably fall upon the government in India, whenever they engaged in another war. I ſhewed that out of the five meaſures adopted by the late Governor for raiſing extraordinary ſupplies, for extraordinary occaſions, three of them were made the groundwork of a proſecution, the fourth was ſeverely

cenſured, and the fifth was utterly exhauſted.* I added, that human ingenuity could not ſtrike out a ſixth ſource of ſupply. In theſe predictions and obſervations I feel myſelf perfectly juſtified by the event, for we we find by every account, both public and private, that the Government in India is in the deepeſt diſtreſs for money, and that large ſums are now exported in ſpecie from this Country to the Carnatic.

To thoſe who are not intimately acquainted with the ſtate of affairs in the Eaſt, it muſt appear wonderful, that after a peace of ſeven years continuance, and after a ſurplus of two millions annually in Bengal for five years, there ſhould be ſuch a dreadful ſcene of poverty, before the army had made a ſingle campaign.

* I allude to the taxing of Cheyt Sing, confiſcating the treaſures of the Begum, the receipt of preſents, drawing bills on the Company, and borrowing upon Bonds in India. The creditor was offered firſt 2s. 8d. and then 1s. 12d. inſtead of 2s. 3d. for the current rupee.

How

How this is to be reconciled with the account Mr. Dundas formerly gave us in opening his India Budget, I know not; but moſt undoubtedly there is a fault or deception ſomewhere. Before Mr. Dundas was placed at the head of the Board of Controul, or, I ſhould rather ſay, before he became the leading member of that Board, it was his cuſtom to exclaim againſt the profuſion and extravagance of the Company's ſervants abroad, and it was reaſonable for thoſe who heard his exclamations to expect, that whenever he came into power, the ſtricteſt œconomy would be obſerved. It turned out, however, with him, as it generally does with all exminiſters, viz. that his actions were directly the reverſe of his profeſſions. Inſtead of lowering the civil and military expences of the ſeveral eſtabliſhments in India, he increaſed them to the amount of £.2,398,192* ſterling

As this is a point of infinite conſequence, I have been anxious to proceed upon the beſt information that it was in my power to procure. I have, therefore,

ſterling a year. In the year 1785, ſoon after Mr. Haſtings's return from India, Sir Archibald

fore, taken the accounts as preſented to Parliament by Mr. Dundas himſelf. In the reports of the Secret Committee, of which Mr. Dundas was the Chairman, are contained the total expences of Bengal, Madras, and Bombay, in the year preceding the late war; that is, from the 30th of April 1777, to the 1ſt of May 1778, and their amount is as follows:—

Bengal - -	£.2,295,739
Fort St. George - -	695,030
Bombay - -	364,373
	£.3,355,142

Mr. Dundas, in his annual budget, has given a very exact account of the total expences of India, from 1781-2 up to the preſent period. I ſhall take thoſe of the year 1788-9; becauſe in that year he told Parliament that all the eſtabliſhments were brought to their proper level, and he conceived there was the moſt flattering proſpect of a long peace. The amount is as follows:

In Bengal, curr. rupees, 308,15,942	£.3,466,792
Fort St. George, pagodas, 39,67,390	1,586,956
Bombay, - rupees, 55,96,680	699,586
	£.5,753,334

I am aware that the acuracy of this account is liable to ſome doubt; becauſe in the latter period, the ſalt advances are included under the head of charges; whereas,

Archibald Campbell gave in a plan for a military eſtabliſhment in India: Mr. Haſtings was conſulted upon it by the Court of Directors. He thought the expence infinitely too great, and if the Coaſt and Bombay were not to be retained without ſuch a drain upon Bengal, that it were better to abandon them entirely, than to preſerve them at ſo great a loſs. This opinion, however, was not adopted: on the contrary, it was held more prudent to expend the ſurplus of the revenues of Bengal in keeping up larger eſtabliſhments upon the Coaſt and Bombay, than to apply it to the payment of the bonded debt.

whereas, in 1777-8, there were no ſuch charges, as that revenue did not then exiſt: and ſome deductions may poſſibly be made from the Bombay and Fort St. George charges, from different modes of keeping accounts at the two periods. But if ſix hundred thouſand pounds were allowed for the difference, it would leave the peace eſtabliſhment of Mr. Dundas one million eight hundred thouſand pounds, for all India, greater than the peace eſtabliſhment when Mr. Haſtings was Governor General.

In

In conſequence of this reſolution, the Board of Controul, inſtead of reverting to the peace eſtabliſhment of 1777-8, which amounted to 3,355,142 pounds Sterling, formed a new one, which amounted, in the year 1788-9, to £.5,753,334 ſterling. I have taken, for brevity's ſake, only two years;—the one immediately preceding the laſt war, and the other of 1788-9; becauſe Mr. Dundas ſaid the expenditure of that year was the loweſt that the ſervice could admit of. Here we ſee a difference in the two peace eſtabliſhments of very near two millions and a half of money. Whether there exiſted a neceſſity for the keeping up ſo large an eſtabliſhment in the time of peace, is a matter deſerving a very ſerious diſcuſſion, and would take up more time than I ſhall at preſent beſtow upon it. I am not going to make a charge againſt the leading member of the Board of Controul. It is ſufficient, as long as he enjoys the confidence of the Houſe of Commons, that he himſelf thinks he has not over-loaded

the

the Company with expence. Every body remembers the ineffectual oppoſition which was made to the ſending out of the four regiments three years back. It is owing to accumulations of the ſame nature, that no part of the bonded debt has been paid off during the ſeven years of profound peace in India: and it is owing to the not diminiſhing of that debt that the government in India is at this moment ſo diſtreſt for money, and ſo incapable of borrowing, either from Europeans or Natives. At this time 12 per cent. is offered for money, and with very little ſucceſs: for the ſubſcribers to the loan are very few indeed. The fact is, the monied men, amongſt the natives, want confidence: they ſay that immenſe remittances were made to Madras and Bombay during peace, and that none of the former bonds have been paid off; and they think, that if no part of a leſſer principal could be diſcharged, it is not very likely that any part can be paid of the principal, when the annual intereſt becomes

much larger. In political matters, the words good and bad, right and wrong, are of ſo uncertain ſignification, that one never knows how to uſe them with propriety. But if a free and liberal expenditure of public money be either a virtue or a crime, it belongs to Mr. Dundas in a much higher degree than to Mr. Haſtings. For there is not a doubt, but that if the latter had continued Governor General of India, or had been at the Board of Controul, there would have been but very little of the bonded debt of India left unpaid at this day. This is no looſe and hazardous aſſertion, for it is reducible to plain arithmetic.--The difference between the eſtabliſhment of 1777-8, to which Mr. Haſtings would have reverted, and that ſettled by Mr. Dundas, would in five years have amounted to nine millions ſterling. The defence which the latter would ſet up, would probably be this:—The Carnatic could not be defended with a leſs force than he had appointed. I have a great deference for the wiſdom and judgement

judgement of Mr. Dundas; but it is not enough for a man to ſay, that this or that is my opinion, but I wiſh to know upon what foundation his opinion is erected.

The Madras military eſtabliſhment of 1777-8 exceeded twenty-ſeven thouſand effective men, and if Mr. Dundas had conſulted any officer who ſerved upon the coaſt in the year 1780, he would have been informed, that the rapid ſucceſs of Hyder Ally, was not owing to the want of force to oppoſe him, but to the diſſipation of that force in detachments. The misfortune that befel Colonel Bailly, very nearly happened to Colonel Floyd, from one and the ſame cauſe. Mr. Haſtings, in 1785 would have returned to the eſtabliſhment of 1777-8, and never once have thought of aſking for four additional King's regiments to be ſent out in time of profound peace. European troops are uſeful to over-awe the ſeapoys, and alſo to oppoſe occaſionally againſt an European enemy; but for long marches and countermarches, and for that kind of hunting warfare which is

carried on againſt the native Princes, who are always very ſtrong in cavalry, in my opinion, the native regiments are the beſt, and by far the leaſt expenſive.

As far as I have contraſted the adminiſtration of Mr. Haſtings with that of Mr. Dundas, I have fully proved, that the former was more beneficial to the Company than the latter: it is true, the one was the ſervant, and the other the maſter of the Company; and I am aware, that it may be ſaid, that the duty of a maſter and a ſervant are very different. I ſhall not take up the reader's time to inquire into the ſeveral duties of each, but proceed to contraſt the difficulties which Mr. Haſtings had to contend with during his adminiſtration, particularly during the late war, with thoſe which Mr. Dundas has to encounter in the preſent.

The wars in which Mr. Haſtings was engaged, originated not from himſelf, but from cauſes to which he was no ways acceſſary.

The

The war with the Mharattas, after the fulleſt examination, appeared to have been occaſioned by the orders of the Directors to the preſidency at Bombay, to which orders the King's Miniſters were a party. The war with the French, Spaniards, and Dutch, originated, as every one who reads this, muſt well remember, from our conteſt in America. In neither of thoſe wars was Mr. Haſtings a volunteer; he was forced by neceſſity into both. The preſent war with Tippoo, as far as I can judge from what has been made known to the public, might have been avoided. This I take to be the general opinion, both in the Eaſt and the Weſt. But, though there may be found thoſe who will defend the juſtice of the war, there exiſts no man bold enough to maintain, looking to the Company only, the policy of the war. It was impolitic for the Company in every point of view. There was no overflow of money in the Treaſury, nor was there a rupee of the bonded debt in India paid, except what was transferred from that

country

country to this. The Company's Charter was near its expiration, and it was then, as it is now, a matter of uncertainty upon what terms it will be renewed, if it be renewed at all. It ſo happened in the adminiſtration of Mr. Haſtings, that ſoon after the war with the Mharattas took place, a war very unexpectedly broke out between France and Great Britain, which was followed by a war with the Spaniards and the Dutch. In the next year, 1779, a league was formed between the Mharattas, the Nizam, and Hyder Ally, for the total extirpation of the Engliſh from Hindoſtan. From this formidable combination of events, Mr. Haſtings found himſelf engaged, at one and the ſame time, with three European powers, and three native. It is true, the Spaniards ſent neither ſhips nor men to invade India; but the conſequence of their joining the French fleet at home, was, that the latter were enabled to ſend a fleet ſuperior to that of the Engliſh into the Indian ſeas, and thereby gained an infinite advantage to themſelves;

themſelves; and which they could not have done, had they received no aſſiſtance from Spain. At the ſame time that Mr. Haſtings ſaw himſelf thus ſurrounded by foreign enemies, he had to contend with litigious colleagues. Mr. Francis, as long as he continued in India, made a point of oppoſing almoſt every meaſure of Mr. Haſtings, juſt as the oppoſition now does every meaſure of Mr. Pitt's. He oppoſed him publicly, and counteracted him privately. To this public oppoſition and private counteraction, I impute the inſurrection of Benaris, the revolt and final expulſion of Cheyt Sing. This internal evil, which happened at Benaris, endangered the exiſtence of the Engliſh in India more than all the foreign enemies taken together; and it proved the great miſchief of a divided government. In addition to the difficulties of contending with ſix foreign enemies, an oppoſing council, and an internal commotion ſtill more formidable, Mr. Haſtings found himſelf without money, which is very juſtly

ſtiled

ſtiled the ſinews of war. To borrow upon bond was impoſſible, for the bonds then already iſſued were at a high diſcount; to draw upon the Company at home, was not only a breach of a poſitive Act of Parliament, but a matter of great uncertainty, whether the Company would or would not accept the bills. Add to this, he was poſitively enjoined by the Court of Directors not to diminiſh the inveſtment. He was in a ſtate exactly ſimilar to that which occaſioned the flight of the Iſraelites from Egypt. Pharaoh commanded them to make the uſual number of bricks, but he allowed them no ſtraw; ſo they went into the field to gather ſtubble. Juſt ſo Mr. Haſtings was ordered to protect India againſt the French, Spaniards, Dutch, Mharattas, Nizam, and Myſoreans, to ſend home the uſual inveſtments, and to do all this without drawing extraordinary bills upon the Company, which, however, he was afterwards allowed to do to the amount of the annual inveſtment, but no farther.

With

With ſuch immenſe demands for money, and with ſuch reſtrictions as were impoſed upon him, who can wonder at Mr. Haſtings's intention to turn the miſconduct of Cheyt Sing into a pecuniary and farther aid? or at his adviſing the Nabob to pay the Company part of the debt he owed them by the reſumption of thoſe treaſures which his mother unjuſtly withheld from him? But I ſhewed in the Elucidation, that Mr. Haſtings's conduct in both theſe caſes was reconcileable to juſtice, to ſound policy, and to the uſage of the country.

But the difficulties I have enumerated were not all. The Court of Directors were in general ſo much under the influence of the Miniſtry, that they alternately praiſed and cenſured his conduct as the Treaſury directed, and were never ſteady in his ſupport for any conſiderable length of time together. The Houſe of Commons paſſed a vote of diſapprobation, and a reſolution for his recal

For this vote, Mr. Dundas, at whoſe inſtance it was paſſed, has more than once expreſſed his penitence. It has often been a matter of much wonder to myſelf and many others, that the publication of that vote through India was not productive of the moſt ſerious miſchiefs. It was certainly ſufficient to have broken every negociation for peace which was then on foot; and it did, in fact, delay that with the Mharattas for many months.

Having thus ſtated the dangers, difficulties, oppoſitions, injunctions, vaſt demands of money, and the want of reſources, which Mr. Haſtings had to ſtruggle with, I ſhall now take a view of the advantages which Mr. Dundas enjoyed at the commencement of the preſent war. There was no diviſion in the government; Mr. Dundas was omnipotent at the Board of Controul; and Lord Cornwallis is poſſeſſed of dictatorial powers in India. He can avail himſelf of the wiſdom

and

experience of his colleagues, without being embarraſſed by their claſhing opinions and jarring intereſts. The army under the command of General Meadows alone is nearly three times the ſtrength as that under General Coote in the laſt war. Inſtead of being attacked ſuddenly and unprepared, as Madras was, in the year 1780, the preſent government of India had their own time for beginning the war; and inſtead of being invaded, are the invaders. General Coote, when he gained a victory over Hyder Ally, could not improve it for want of bullocks to draw his guns. The preſent commanders have plenty of draft cattle, and had time to have procured as many as they could poſſibly want. Sir Eyre Coote had to animate and recruit a diſpirited, and broken army. The preſent commanders began their career with well appointed armies, full of ſpirit, and marching, as they thought, to certain victory.

Inſtead of having to contend with three European and three native powers, as Mr. Haſtings had; the preſent government of India has to contend with only one of the latter, and is at the ſame time aſſiſted by the other two: ſo that in the laſt war there were ſix foreign enemies againſt the Engliſh alone; and in this there are three powers, viz. the Engliſh, the Nizam, and the Mharattas againſt Tippoo alone. Common arithmetic will here teach us, that in point of ſtrength, the advantages in the preſent war, compared with the latter, are in the proportion of 18 to 1; but there is another advantage which Mr. Dundas enjoys above Mr. Haſtings, which is of infinite importance; I mean that of parliamentary confidence, and the conſequent command of the national purſe and credit. In the midſt of Mr. Haſtings's negociations, every thing was publiſhed to the whole world; and every invidious conſtruction put upon his motives and actions that they could poſſibly admit of. On the

contrary,

contrary, Mr. Dundas gives the public juſt as much information as he pleaſes, and withholds the remainder. Secrecy, which is ſo eſſentially neceſſary to all other negociations, was violated in Mr. Haſtings's caſe; but Mr. Dundas bids inquiſitive legiſlators aſk no more queſtions. In ſhort, I cannot figure to myſelf any poſſible advantage that the latter ſtands in need of, nor any poſſible diſadvantage which the former did not labour under.

Many, who read what I now write, may think, that I take the painter's liberty, of drawing pictures, and colouring them from fancy, or imagination: but that is not the caſe, I ſit down now, as I did when I wrote the Elucidation, with a determination to repreſent things to others as they really appear to myſelf. I am not the enemy of Mr. Dundas, nor do I wiſh to vilify his adminiſtration in the eyes of the public; I am not conſcious of having magnified the advantages which

which he poſſeſſed, when he adopted the reſolution of going to war with Tippoo. The only thing that he ſeems to want, is a preſent ſupply of money for the troops on the Coaſt, and the confidence of the natives of Bengal in the Britiſh Government, with reſpect to loans. The former he is now removing by the exportation of ſilver from this country; and the latter he would have had, if he had thought fit to have kept up a leſs eſtabliſhment in the time of peace, and to have applied the ſavings to the reduction of the bonded debt. A meaſure of that kind might have leſſened his patronage, but it would have benefited the Company and the public. Having, now, contraſted Mr. Dundas's economy in the diſpoſal of revenue, with that of Mr. Haſtings's, and alſo the advantages enjoyed by the one in carrying on a war, with the diſadvantages that oppreſſed the other; I ſhall next exhibit the ſucceſſes of each, as far as they are yet come to public knowledge. Mr. Haſtings, regardleſs of the

timid

timid counſels of Mr. Francis, who would have abandoned Madras to the mercy of Hyder Ally, ſent an army under Sir Eyre Coote, to the relief of that unfortunate ſettlement, and ſaved it. The extra allowance which he gave the commander in chief on that ſervice is now the ſubject of proſecution. The public, glory in the effect, but reprobate the means. Mr. Haſtings did right in ſending Sir Eyre Coote to Madras, but he did wrong in paying him for going thither.

During a long war with all the powers, I have enumerated both European and native, Mr. Haſtings loſt not one foot of territory; on the contrary, he diſpoſſeſſed the French and Dutch of their ſettlements at Bengal, and upon the coaſt, which were afterwards reſtored to them by the Miniſtry of Great Britain, as the redemption of ſome part of what their predeceſſors had loſt in other quarters of the world. He made an honour-

able

able and laſting peace with the Mharrattas, and at the concluſion of his government, left the provinces of Bengal in a flouriſhing ſtate; their revenues increaſing, and the people happy. He ſubdued the inſurrection at Benares, expelled the tyrant, and added a large revenue to the reſources of the Company.

He made an arrangement with the Nabob of Oude highly pleaſing to that Prince, and which Mr. Dundas very warmly approved of. He received unexampled proofs of the eſtimation in which he ſtood with all ranks of people, Europeans and natives; and I will take upon me to ſay, that the Britiſh character in India never ſtood higher than on the day Mr. Haſtings quitted Bengal. France actually ruined herſelf by exertions in India, which coſt her above ſeven millions ſterling in ſpecie. Tippoo had felt the force of our arms ſo far, as ſincerely to wiſh for peace with us in future; and the Mharattas and the Nizam from enemies were converted into

into ſteady friends. The annual reſources of Bengal, of all deſcriptions, were nearly five millions and a half ſterling.

Now let us ſee what Mr. Dundas has effected. He has involved the Company in a war; ſome ſay, an unprovoked, but certainly an impolitic war. Inſtead of diminiſhing the Company's debts, he has loaded them with an eſtabliſhment much too large in time of peace for their finances; and is now forced to deprive this country of its ſpecie to ſupport the the war. His armies have hitherto been unſucceſsful, although the men have done their duty, and behaved moſt gallantly. The retreat, I may ſay, the defeat of Colonel Floyd, endangered the very exiſtence of the Company on the coaſt, and perhaps even at Bengal. For by a train of very eaſy and natural conſequences dependent upon each other, one or both of theſe events might have been brought about; had Colonel Floyd's detachment been actually cut off, as Colonel Baillie's was, and it was

a miracle almoſt that they were not, General Meadows muſt have been defeated. In ſuch a caſe, the Nizam and Mharattas, would, according to eaſtern cuſtoms, have abandoned, nay, have turned againſt us; and what the next conſequences would have been, it is impoſſible to ſay, with certainty, but the moſt probable are, that Madras would have fallen immediately, and Bengal, ſtripped of its army and its reſources, might have followed. It may be aſked, why ſhould General Meadows's army have been cut off by Tippoo after the deſtruction of Colonel Floyd, when General Monro's was not after the overthrow of Colonel Baillie's? The caſes are not ſimilar, General Meadows is not ſo near Fort St. George as Monro was. What the event of the war with Tippoo will be, no human ſagacity can foreſee; but it is not very likely that we ſhould derive much benefit from it. If the Mharattas and the Nizam would cooperate ſeriouſly, in conjunction with our troops, it is not impoſſible but Tippoo might

be

be extirpated from Myſore; but as it is not their intereſt to render us too powerful, there is much reaſon to apprehend that their exertions will not be deciſive: but, ſuppoſing that the object of this war was obtained, and Tippoo's country in our poſſeſſion, the expence of defending it, in our way of keeping up eſtabliſhments, would be greater than its produce. There is a very old and a very true proverb, *Ne ſutor ultra crepidam*; which means that every man ſhould be confined to his own profeſſion. Mr. Dundas is certainly a man of great profeſſional abilities, an able debater in Parliament, and, I have heard, a good arithmetician; but it requires a great degree of local knowledge, an intimate acquaintance with the intereſts and ſtrength of the native Princes of Indoſtan, and a long experience in military matters in that country, to enable a man to judge of the expediency of going to war, and the probability of ſucceſs: Mr. Dundas muſt want thoſe requiſites, and it is not poſſible for the greateſt

Dundas fixed the force; and I look upon the preſent war to belong to him.

The next point in which I ſhall contraſt the adminiſtration of Mr. Dundas with that of Mr. Haſtings, is in the article of Treaties. The latter is impeached for the violation of treaties; though the only people who, if the facts were true, had a right to exclaim, are perfectly ſilent as to complaint; and on the contrary, bear teſtimony in his favour. Mr. Dundas engages in a war for the violation of a treaty, and begins his operations by a breach of faith with the oldeſt ally the Company have, and alſo with the Rajah of Tanjore.

If an additional inſtance of the abſurdity and inconſiſtency of political men could be of any uſe to the preſent, or to any future age, it would be well worth while to record the conduct of Mr. Dundas, with reſpect to the Rajah of Tanjore. In the year 1781, when

when our diſtreſſes in every part of India were at the higheſt, Mr. Haſtings, in a letter to Lord Macartney, expreſſes his aſtoniſhment that the Rajah ſhould with-hold a ſupply of grain from the Britiſh army, and recommends it to his Lordſhip not to leave it in the power of the Rajah to with-hold a grain of his ſtore, or a rupee of his treaſury, except what is neceſſary for his ſubſiſtence, while the then deſperate ſtate of the ſervice continued. This letter was commented on at home; and Mr. Dundas moved the following reſolutions, which were unanimouſly voted by the Houſe of Commons:

29th April, 1782.

"That any attempt to ſeize upon the re-
"venues of the kingdom of Tanjore, and to
"confiſcate the ſame for the purpoſes of the
"Nabob, or of the Eaſt India Company, *is*
"*contrary to the public faith*, and tends to the
"*oppreſſion* and *ruin* of the *country*."

May

May, 28th, 1782.

" That if any perſons, in violation of the " public faith given by the Eaſt India Com- " pany in the year 1775, and contrary to " the true intent and meaning of the ſeveral " reſolutions of this Houſe of the 29th " April laſt, have taken in ſequeſtration or " otherwiſe the revenues of Tanjore into the " management of the Nabob of Arcot, or " of the Eaſt India Company, it is the duty " of the Court of Directors forthwith to " order the ſaid revenues to be returned to " the adminiſtration of the King of Tan- " jore, agreeably to the treaties of the years " 1762 and 1775."

In the years 1781 and 1782, when the diſtreſſes of the Engliſh were a thouſand times greater than they are, or, at leaſt, than they ought to be at this time, Mr. Dundas could not tolerate the idea of a breach of treaty; nay, though the whole country might be loſt by the too ſtrict adherence to it.

it: but in the year 1790, we find that the ſame Rajah falling in arrear of his ſtipulated payment, is ſtripped of the collection of his revenues altogether, in violation of a very recent treaty; for inſtead of purſuing the method ſettled betwixt Sir Archibald Campbell and the Rajah, for collecting the arrears, if any became due—the ſucceſſors of the former make ſhort work of it, and ſay—that as the treaty made by Sir Archibald Campbell, under the orders of the Board of Controul, was not efficient, they had nothing left but to take the collections into their own hands. It is remarkable, that the government of Madras did not think it worth while even to give the mode of realizing the Rajah's proportion to the war, as ſettled by the treaty, a fair trial, or even any trial at all; but without any other pretence than that of expediency, they have recourſe to the *jus fortioris* at once. It was not pretended that the Rajah had committed any act of delinquency or default more than was fore-

ſeen and provided againſt; nor was it pretended that the letter of the treaty was not expreſſive of its ſpirit. There was no miſtake nor miſunderſtanding in the matter; it was mere repetition of *ſtat pro ratione voluntas.*

And here I cannot help taking notice of one of the moſt ſingular circumſtances that ever occurred in the hiſtory of this country. When Mr. Dundas was told by Mr. Baſtard of the violation of the treaties between the Nabob of Arcot, the Rajah of Tanjore, and the Company, he ſolemnly denied the fact, affirmed there had been no breach of treaty, and declared he ſhould well deſerve the reprobation of the Houſe of Commons, and of the public, if he could *continue* a proſecution againſt Mr. Haſtings for the violation of a treaty while he approved of a ſimilar act in others. Since that ſolemn declaration, Mr. Dundas and Mr. Pitt have ſigned a letter to Madras and to Bengal, approving the ſeizure of the Carnatic and Tanjore. That the treaties have been violated, is in

proof

proof, from the declaration of the Governor and Council of Madras, who, tell Lord Cornwallis, that if he orders them to *adhere to the treaty*, they will obey, but expect no good effects. His Lordſhip then orders them to take the countries, that is, to break the treaties.

The Nabob of Arcot is in a ſituation preciſely ſimilar to that of the Rajah of Tanjore. The former exclaims, threatens, and commences a law-ſuit. The latter, I am informed, has appealed to our allies the Mharattas, and has called upon them for ſupport againſt his friends, the Engliſh. All this works no effect upon the India Miniſters; for both Mr. Pitt and Mr. Dundas have approved of what the Madras Government had done. This circumſtance muſt convince every one who reflects upon it, that Mr. Haſtings's principal crime was, that of filling a ſtation that other men wanted. But if we ſuppoſe the caſe to be otherwiſe, and that the Rajah and Nabob have no occaſion

ſet-off, of merits againſt demerits. Mr. Dundas has often ſaid, that if Mr. Haſtings would have accepted that, he had never been impeached; the fact is, Mr. Dundas was not ſo good a judge, when he voted for the impeachment of Mr. Haſtings, of the difficulties of a Governor's ſituation in India in time of war, as he is at this moment. But he ſhould reflect, that, if with all the advantages he now enjoys, his pillow is not eaſy to him, how hard muſt have been the ſleeping place of Mr. Haſtings, during the late war? And what a bed of thorns Mr. Dundas has made for him ſince. Suppoſe the event of this war ſhould be unfortunate in the extreme; with what face will Mr. Dundas meet the Britiſh Parliament? Will it be ſufficient to tell them, as he did, when he repented of the reſolution for the recal of Mr. Haſtings, that he had formed a wrong judgement of things? Will that be any recompence to the ſtockholders, and to the nation at large?

There

There is one ſubject more which I have to touch upon, and which eſcaped my memory in its proper place; Mr. Haſtings, among other matters, is impeached upon the bullock contract, and his accuſers will attempt to prove that he expended more money upon carriage and draft cattle than was neceſſary; and they will probably lay much ſtreſs upon his giving a contract for cattle, without offering the ſame to the loweſt bidder. Mr. Pitt, in the preſent Parliament, laid very particular ſtreſs upon this contract; but I preſume he poſſeſſes now much uſeful information upon this ſubject, that he had not before him in February.

There are two ways of conſidering this queſtion; the preſent contract for Bengal cattle is much leſs by the head than that ſettled by Mr. Haſtings; but the carriage of ammunition, and the draft of guns, is much more expenſive, for the bullocks now uſed are of an inferior kind, and, conſequently

quently, it requires a greater number to do the ſame work. It is juſt like hiring carts and waggons in this country; you may get a cart for ten ſhillings a day, and a waggon for fifteen, but the waggon will carry as much as two carts, conſequently, by employing a waggon, you ſave five ſhillings upon twenty. But that is not the worſt part of the ſtory; for the abuſe thrown upon Mr. Haſtings for allowing a fair price for large cattle, has cauſed the introduction of an inferior ſort of bullocks into the Bengal ſervice; and the evil of it is now ſo ſeverely felt, that the contractor is ſent into the provinces to purchaſe at any price a great number of that ſtamp and ſize, which were formerly employed.

Experience has ſhewn * the government of Bengal, the impolicy of carrying into effect that

* I ſaw a letter a few months ago, from an officer commanding one of the Bengal battalions, then on its march to the Carnatic; he obſerves in it, that if they had with them three thouſand of ſuch Bengal bullocks

that order of the Board of Controul, for giving the contract to the loweſt bidder; for it is univerſally acknowledged by all the officers in our ſervice, that a ſtrong uſeful bullock cannot be provided and maintained for the monthly allowance, as ſettled in the preſent contract. It is a well-known fact, to all who have been in the ſervice, that if the carriage and draft cattle fail, or are tired out, there is an end of the campaign. Here we ſee an inſtance of injudicious parſimony. The beſt method would be to allow a handſome profit to the contractor, and to injoin the commanding officers of brigades and other corps, to ſee that the full number of cattle were kept up, and in good condition. It is a very bad plan to make the bargain ſo hard, as to

bullocks as were in the ſervice in the laſt war, it would be a more uſeful reinforcement than double that number of men, but that they had not quite three hundred, and thoſe mere rats. The event has proved the juſtice of this officer's remark; for if they can be procured, Lord Cornwallis purpoſes taking 2000 head of ſtrong cattle with him to the coaſt.

drive the contractor to the neceſſity of ſeeking a profit by deception and deluſion. Such was often the caſe before the contract alluded to, and ſomething like it ſeems to be the caſe at preſent.

I have now gone through a curſory compariſon of the adminiſtration of Mr. Haſtings and Mr. Dundas, in peace and in war; and the advantage is moſt evidently in the ſcale of the former. In peace, the eſtabliſhments of Mr. Haſtings were infinitely more economical than thoſe of Mr. Dundas. In war, againſt a ſingle enemy, Mr. Dundas expends more money than Mr. Haſtings did when he had to contend with all the great powers of India and in Europe; and Mr. Dundas, before the cloſe of the firſt campaign, gives his unqualified approbation to a meaſure, ten times ſtronger than any one of thoſe that Mr. Haſtings adopted, under all the preſſing difficulties of the laſt war.

Our

Our ſituation is, undoubtedly, moſt critical; the next ſhip may bring better news; but, in every event, I maintain that the preſent war, with reſpect to the intereſts of the Eaſt India Company, is in the higheſt degree impolitic, whatever it may be, as affecting the future views of the King's Miniſters.

FINIS.